

date of submission to the States by Congress."

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

WESTBROOK, Chairman.

Committee Room,

Austin, Texas, March 2, 1918.

Hon. E. A. Decherd, President Pro Tem. of the Senate.

Sir: Your Committee on Mining, Irrigation and Drainage, to whom was referred

Senate Bill No. 10, a general irrigation bill,

Have had the same under consideration, and I am instructed to report the same back with the recommendation that it do not pass and be not printed, but that the hereunto attached committee substitute be passed in lieu thereof.

BAILEY, Acting Chairman.

SIXTH DAY.

Senate Chamber,

Austin, Texas,

Monday, March 4, 1918.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by President Pro Tem. Decherd.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Hall.
Bailey.	Henderson.
Bea.	Hopkins.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Caldwell.	Lattimore.
Clark.	Page.
Collins.	Robbins.
Dayton.	Smith.
Dean.	Strickland.
Decherd.	Suiter.
Faust.	Westbrook.
Floyd.	Woodward.
Gibson.	

Absent—Excused

Hudspeth.	McNealus.
McCollum.	Parr.

Prayer by the Chaplain.

Pending the reading of the Journal of Saturday, the same was dis-

pensed with on motion of Senator Alderdice.

Excused.

Senator Woodward for today on account of important business on motion of Senator Johnston of Harris.

Senator McCollum for the ensuing week on account of important business on motion of Senator Johnston of Hall.

Senator McNealus for today on motion of Senator Bee.

Senator Decherd for Saturday afternoon on account of important business on motion of Senator Westbrook.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Message from the House.

Hall of the House of Representatives.
Austin, Texas, March 4, 1917.

Hon. E. A. Decherd, President Pro Tem. of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 14, A bill to be entitled "An Act to prohibit making an appointment for, or soliciting any person in the service of the United States military or naval forces, to meet or come in contact with any immoral woman, for the purpose of unlawful sexual intercourse; prohibiting any person operating a vehicle for hire from transporting any person engaged in the service of the United States military or naval forces to any place for the purpose of unlawful sexual intercourse; prohibiting any person operating a vehicle for hire from transporting any woman for the purpose of meeting anyone engaged in the service of the United States military or naval forces for the purpose of unlawful sexual intercourse; prohibiting any person

operating a vehicle for hire from transporting any woman accompanied by any person engaged in the military or naval forces of the United States to any place for the purpose of unlawful sexual intercourse; providing a penalty for the violation of this act, and declaring an emergency"

H. B. No. 15, A bill to be entitled "An Act declaring that if any person shall, during the time the United States of America is at war, use any language in the presence and hearing of another, of and concerning the United States of America, the entry or continuance of the United States of America in the war, or of and concerning any flag, standard, color, or ensign of the United States of America, or any imitation thereof, or that of any officer of the United States of America, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair, President Pro Tem. Decherd, had referred, after their captions had been read, the following House bills:

H. B. No. 14, referred to the Committee on Criminal Jurisprudence.

H. B. No. 15, referred to the committee on Criminal Jurisprudence.

Morning call concluded.

House Joint Resolution No. 1.

The Chair laid before the Senate as regular order and on third reading:

H. J. R. No. 1, "Ratifying the amendment to the Constitution of the United States of America proposed by the Sixty-fifth Congress of the United States at its second session, prohibiting the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes; authorizing Congress and the several States of the United States of America to have concurrent power to enforce said article by appropriate legislation

and providing that said article shall be inoperative unless it shall have been ratified as an amendment to the Constitution of the United States by the Legislatures of the several States as provided in the Constitution, within seven years from the date of the submission of same to the States by Congress."

The resolution was laid before the Senate, read third time and, on motion of Senator Westbrook, was passed by the following vote:

Yeas—15.

Alderdice.	Henderson.
Buchanan of Scurry.	Hopkins.
Collins.	Lattimore.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Suiter.
Floyd.	Westbrook.
Gibson.	

Nays—7.

Bailey.	Hall.
Bee.	Johnston of Harris.
Clark.	Parr.
Faust.	

Absent—Excused.

Woodward.

Pairs Recorded.

Senator Page (present), who would vote "nay"; Senator McNealus (absent), who would vote "yea."

Senator Caldwell (present), who would vote "nay"; Senator Buchanan of Bell (absent), who would vote "yea."

Senator Johnson of Hall (present), who would vote "yea"; Senator McCollum (absent), who would vote "nay."

Senator Strickland (present), who would vote "yea"; Senator Hudspeth (absent), who would vote "nay."

Resolutions Signed.

The Chair, President Pro Tem. Decherd, gave notice of signing, and did sign in the presence of the Senate, after their captions had been read, the following:

H. C. R. No. 1, Whereas, the Hon. Clarence Ousley, who is doing a great part in helping win the world war, is now in the city; therefore, be it

Resolved, By the House, the Sen-

ate concurring, That he be invited to address the Legislature at 1 p. m. today upon any subject he chooses.

H. C. R. No. 2, relating to employment and pay of alien enemies in the State of Texas.

Senate Bill No. 13.

The Chair laid before the Senate on second reading:

S. B. No. 13, A bill to be entitled "An Act prohibiting the manufacture, sale, barter or exchange of spirituous, vinous or malt liquors, or liquors of any character capable of producing intoxication within this State on and after the taking effect of this Act, except for medicinal, mechanical, scientific or sacramental purposes; prohibiting the use of premises, devices and aids in the manufacture, sale, barter or exchange of such liquors; providing penalties for violation of this Act; providing certain civil remedies for the enforcement of the terms of this Act, the same being cumulative of all other remedies relevant thereunto; prescribing the terms upon which liquors may be manufactured, sold bartered or exchanged for medicinal, mechanical, scientific or sacramental purposes; providing procedure for the procuring of evidence for the enforcement of the terms of this Act and providing procedure for the prevention of violations of the terms of this Act; repealing certain laws in conflict herewith; making the terms of this Act cumulative of all other laws upon the subject not in conflict herewith; extending to the entire State the provisions of certain statutes heretofore applicable to local option territory; making it a felony punishable by confinement in the penitentiary to keep a cold storage or place for the keeping for others of such liquors, and punishing corporations by fines, penalties and forfeiture of charters for the violation of this; providing penalties and remedies against officers charged with any duty in connection with the enforcement of this Act for failure to perform such duties; prescribing venue and declaring an emergency."

The bill was read and on motion of Senator Collins the same was laid on the table subject to call.

Senate Bill No. 15.

Senator Suiter called up from the table and the Chair laid before the Senate on second reading:

S. B. No. 15, A bill to be entitled "An Act to amend Article 7447, Chapter 5, Title 126 of the Revised Civil Statutes of Texas, of 1911, so as to hereafter provide that no license shall be granted to any dealer in either spirituous, vinous or malt liquors except within incorporated cities or towns and prescribing the distance from certain institutions and places within which no license for such business shall be granted, and declaring an emergency."

The bill was read second time and passed to engrossment.

Senator Suiter moved that the constitutional rule requiring bills to be read on three several days be suspended and Senate Bill No. 15 put on its third reading and final passage.

The motion was lost by the following vote:

Yeas—17.

Alderdice.	Hopkins.
Buchanan of Scurry.	Johnson of Hall.
Caldwell.	Lattimore.
Collins.	Robbins.
Dayton.	Smith.
Dean.	Strickland.
Decherd.	Suiter.
Floyd.	Westbrook.
Gibson.	

Nays—6.

Bailey.	Faust.
Bee.	Hall.
Clark.	Parr.

Absent.

Buchanan of Bell.	Johnston of Harris.
Henderson.	Page.

Absent—Excused.

Hudspeth.	McNealus.
McCollum.	Woodward.

Senate Bill No. 8.

The Chair laid before the Senate on second reading:

S. B. No. 8, A bill to be entitled "An Act to prohibit the barter, sale or exchange in time of war of spirituous, vinous or malt liquors or medi-

cated bitters capable of producing intoxication within ten miles of any camp or concentration point where soldiers, sailors, marines or aviators are being trained in time of war for military service in the army or navy of the United States, and to provide suitable punishment for a violation of the terms of said Act."

The bill was read and on motion of Senator Lattimore, the same was laid on the table subject to call.

Recess.

At 11:10 o'clock a. m., the Senate, on motion of Senator Dean recessed until 2:30 o'clock p. m. today.

After Recess.

(Afternoon Session.)

The Senate was called to order by President Pro Tem. Decherd.

Simple Resolution No. 21.

Whereas, Hon. Wm. Pierson, a former member of the lower House, and now Judge of the Eighth Judicial District is in the city, therefore be it

Resolved, That Judge Pierson be invited to address the Senate and be accorded the privilege of the floor.

LATTIMORE.
WESTBROOK.

The resolution was read and adopted and Judge Pierson was presented to the Senate and made a brief patriotic address.

Messages from the House.

Hall of House of Representatives.
Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 9, A bill to be entitled "An Act to prevent and prohibit in time of war, the sale, barter or exchange of spirituous, vinous and malt liquors or medicated bitters capable of producing intoxication, within ten miles of any fort, arsenal, training

camp, cantonment, aviation field or school where soldiers are being quartered, held or trained in time of war in any branch of the army or navy of the United States; to prevent and prohibit the transportation of such liquors into such territory; to provide against application for suspended sentence in such cases; to prohibit the issuance of liquor licenses in such territory; to provide suitable punishments in such cases, and declaring an emergency," with engrossed rider.

Concurs in Senate amendments to House Joint Resolution No. 1.

Respectfully,

BOB BARKER,
Chief Clerk, House of Representatives.

Hall of House of Representatives.
Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 18, A bill to be entitled "An Act authorizing counties acting through their commissioners courts, to purchase seed to be planted on farms in such counties by residents thereof who are poor and unable to procure same and to purchase feed for the work stock of such residents, and prescribing the terms and conditions, rules and regulations, etc. and declaring an emergency," with engrossed rider.

Respectfully,

BOB BARKER,
Chief Clerk, House of Representatives.

Bills Read and Referred.

The Chair, President Pro Tem. Decherd, had referred, after their captions had been read the following House bills:

House Bill No. 9, referred to the Committee on Criminal Jurisprudence.

House Bill No. 18, referred to the Committee on Agricultural Affairs.

Message from the Governor.

Here a messenger from the Governor, Mr. S. R. Brooks, appeared at the bar of the Senate with the following executive message, with exhibits:

Governor's Office,
Austin, Texas, March 4, 1918.
To the Thirty-fifth Legislature in
Fourth Called Session.

Gentlemen: Carrying out the provisions of your act contained in House Concurrent Resolution No. 22, approved April 4, 1917, relating to the sale of property known as the State's Iron Industry, I submit for your information, a statement from the Board of Prison Commissioners showing what has been accomplished up to this time in complying with the mandate of your body.

I shall submit a report of further progress in disposing of this property and of reestablishing and putting in operation this plant when there is a consummation of the sale and which, it is indicated, may take place at an early date.

Before the convening of the special session of the Legislature I requested the Board of Prison Commissioners to prepare this data for the information of the Legislature and the report herewith submitted is a result of that request.

Respectfully submitted,
W. P. HOBBY,
Governor of Texas.

Board of Prison Commissioners.
Huntsville, Texas, Feb. 23, 1918.
Hon. W. P. Hobby, Governor of
Texas, Austin Texas.

Dear Sir: We beg to acknowledge receipt of your letter of the 21st instant requesting information as to the status of the sale of the Rusk Iron Industry, asking what bids were received, to whom the contract was awarded, terms of sale, and what has occurred in connection with the matter up to the present date.

We enclose herewith copy of our letter to you of December 4, 1917, attached to which are copies of the bids received, brief description of the property, statement of terms and conditions under which bids were to be submitted, method of advertising for the bids, etc. From this you will note that the highest and best bid was filed by Mr. L. P. Featherstone, of Beaumont, Texas. In our letter of December 4, we requested that you advise whether you would approve action of the Commission in accepting Mr. Featherstone's bid upon the expiration of the thirty days which the law requires should elapse before acting on the bids. We have no

letter from you directly in reply to this but in subsequent conferences of the Commission with you it was the understanding of the Commission that you would approve the sale. We also wrote the Attorney General on December 4, giving him the same facts as contained in our letter to you of the same date and he has written us approving the sale to Mr. Featherstone, his approval being required by the Joint Resolution authorizing the sale.

The next step taken was the entering into a tentative agreement between the Commission and Mr. Featherstone on December 21, 1917, the purpose being to agree upon the necessary details to be incorporated in the final instruments to be prepared by the Attorney General in order to consummate the sale with as little delay as possible. Copy of this agreement is attached hereto. You will note the agreement provides the terms of payment should be: One-fourth cash on delivery of deed; one-fourth in twelve months; one-fourth in eighteen months; one-fourth in twenty-four months. Copy of this agreement was sent to the Attorney General with request to prepare the deed, notes and bond to be executed as provided by the Joint Resolution. The deed and other papers not having been received from the Attorney General, and Mr. Featherstone desiring possession of the property on January 18, 1918, Mr. Featherstone made a payment to the Commission of \$5,000.00 earnest money and the property was turned over to him pending consummation of the sale. We understand that considerable work has already been done on the property preparatory to commencing operations.

The following day the deed, notes and bond were received from the Attorney General. The bond was sent to Mr. Featherstone for his execution, as also a copy of the deed, as we desired him to check over the various terms and stipulations of the deed so that if objection was raised to any portion thereof it could be rewritten before the execution of same by the Commission and before same was transmitted for the approval of yourself and the Attorney General. At that time Mr. Featherstone was in Washington but has recently returned to Texas and has advised the Commission that he will within the

next week or ten days be in Huntsville with a view of closing up all matters in connection with same.

As soon as the deed, notes and bond are properly executed, all papers will be laid before you for your final consideration and action, all of which we anticipate will be done within the next ten days or two weeks.

Trusting the foregoing will give you fully the information desired, we remain,

Yours truly,

BOARD OF PRISON COMMISSIONERS.

(Signed) By Oscar F. Wolff, Sec.

Board of Prison Commissioners.

Huntsville, Texas, Dec. 4. 1918.

Hon. W. P. Hobby, Governor of Texas, Austin, Texas.

Dear Sir: In response to advertisement offering for sale the Rusk Iron Industry, we received three bids which were opened in the office of the Prison Commission on December 3, 1917. These bids were as follows:

Geo. W. Armstrong, Ft. Worth, \$15,000.

Jas. H. Edmonds, Houston, \$100,000.

L. P. Featherstone, Beaumont, \$112,500 for the furnace, pipe, plant, machinery, land, buildings, etc., and on the ore in ground 50c per ton on 50 per cent metallic content basis, to be paid for as used.

We promptly gave to the public press the contents of these bids, as required by law, in order that we may be in position to act on the bids at the expiration of thirty days.

As the bid of Mr. Featherstone is the highest and best bid, the Commission will favor accepting same and are writing to request that you kindly indicate whether you will be inclined to approve such action at the proper time and will be glad to have any suggestions you may care to offer in the matter. The terms of the concurrent resolution adopted by the Thirty-fifth Legislature, adopted at its regular session provides the sale is to be made with the approval and consent of the Governor and Attorney General. By having your views relative to making the sale we will be able to work out certain details so as to facilitate the closing of the contract and transfer of the property when the thirty days have expired.

We enclose herewith copy of the

advertisement, copy of the list of property and conditions of sale furnished bidders and other parties who requested same and copies of the bids which were made.

Yours truly,

BOARD OF PRISON COMMISSIONERS.

Advertisement placed for eight consecutive daily issues, November 11 to 18, 1917, inclusive, in the following daily newspapers having a general circulation:

Dallas Morning News, Dallas, Texas.

Houston Chronicle, Houston, Texas.
San Antonio Light, San Antonio, Texas.

Four-States Press, Texarkana, Texas.

"Bids will be received from any person, firm or corporation of Texas for the purchase of the property at the Rusk Penitentiary known as the State's Iron Industry, situated in Cherokee County, including the blast furnace, pipe plant, iron ore rights and land needed for the plant, water rights and such other rights and privileges belonging to the State and necessary for use in connection with said iron industry. Conditions of sale and list of property to be included in sale will be furnished on application. All bids must be submitted not later than 12 o'clock noon, December 3, 1917. Right reserved to reject any and all bids. Board of Prison Commissioners, Huntsville, Texas."

Huntsville, Texas, Dec. 3, 1917.

Board of Prison Commissioners,
Huntsville, Texas.

Gentlemen: In compliance with your request for bids as per advertisement appearing in newspapers of recent date for the purchase of the property at the Rusk Penitentiary known as the State's Iron Industry and in accordance with the description of property and terms and conditions of sale prepared and furnished by you I hereby submit a bid as follows:

Bid on furnace and conjunctives and operating parts, machinery, land, buildings, pipe plant, etc., the sum of \$112,500.00.

On the ore in ground fifty cents (50c) per ton on 50 per cent metallic basis, to be paid for as used.

Respectfully submitted,

(Signed) L. P. FEATHERSTONE.

Bid received: Dec. 3, 1917, 11:55 a. m.
 Bid opened: Dec. 3, 1917, 12 o'clock noon.

Property to be included in sale of State's Iron Industry, at Rusk, Texas:

(1) A tract of 136 acres of land, described in the attached field notes, together with the improvements and other property now located thereon.

(2) A right to the use of the water in the Guinn reservoir, situated near the State property.

(3) Switching and trackage rights between the northern and southern boundary lines of the Iron works property.

(4) All mineral rights owned by the Texas Prison System in Cherokee County, Texas, with rights of ingress and egress.

Exceptions and Reservations.

There will be excepted and reserved to the Prison System in the sale of the above listed property:

(1) Texas State Railroad right-of-way and tracks including the track extending to the box factory and the track extending into the Rusk prison.

(2) Right to the use of the reservoir located on above mentioned 136 acres of land, right to use of water in the Guinn reservoir, and the pipe lines located on the land to be sold, for the use of the Rusk prison and industries connected therewith.

The above mentioned property is offered for sale to any person, firm or corporation of Texas who will agree and give good and sufficient bond in the sum of one hundred thousand dollars (\$100,000) to take, pay for, rehabilitate and put in operation the blast furnace, the cast iron pipe plant and foundry located thereon within a reasonable time from the date of the sale thereof, and to operate said industries for at least one full year.

Purchase price to be paid half cash, balance terms.

All bids must be filed not later than 12 o'clock noon, December 3, 1917.

Address all communications to
 BOARD OF PRISON COMMISSIONERS.

Huntsville, Texas.

Houston, Texas, Dec. 2, 1917.

The Hon. Board of Prison Commissioners, Huntsville, Texas.

Gentlemen: Am in receipt of your plans and specifications for the sale of the Rusk iron ore beds, blast furnaces, machinery of every description, trackage facilities, etc., including one new Bell top for the blast furnace, valves and spuds that your Mr. Warden advises while looking over the property that they were in his possession, and I hereby tender you an offer of one hundred thousand and one hundred dollars, payable \$24,100.00 on receipt of clear title to the complete outfit, \$75,000.00 on or before five years, with interest at the rate of five per cent per annum, payable semi-annually.

Trusting you will see fit to accept this offer, and advise me, I am,

Very truly yours,

(Signed) JAS. H. EDMONDS.

Bid received: Dec. 2, 1917, 7 p. m.

Bid opened: Dec. 3, 1917, 12 o'clock noon.

Ft. Worth, Texas, Nov 30, 1917.

Board of Prison Commissioners, Huntsville, Texas.

Gentlemen: We submit this as our official bid in the sum of fifteen thousand (\$15,000.00) dollars for the property including the State's Iron Industry, at Rusk, Texas, together with a tract of one hundred and thirty-six (136) acres of land and other tracts, all of which is embodied in your advertisement, a copy of which was received from you together with your letter of November 19, 1917, a copy of which advertisement is attached hereto.

We further agree to the exceptions and reservations as mentioned, and to the conditions of sale, and terms of payment. Therefore should our bid receive favorable consideration from you and upon notice thereof, we shall be glad to put the matter into contract form, without delay.

Awaiting your early advice in the matter, we are,

Respectfully yours,

GEO. W. ARMSTRONG & CO.
 (Corporation Seal) J. P. Foster,
 Secy-Treas.

The State of Texas,
 County of Cherokee.

Field notes of a survey of 136

acres of land situated in said County and State, about 1 mile N. W. from the court house in the town of Rusk, being 84.8 acres of the A. H. White survey of 320 acres, including public roadways, railroad right-of-ways, and 1 acre of land known as the "Kilgore graveyard" and 51.2 acres out of the J. M. Miller survey on which is located the reservoir and pipe line belonging to the East Texas Penitentiary. Said survey made for the Texas State Penitentiary Commissioners.

Beginning at a stake in the A. H. White survey at a point that is 75 feet East from the N. E. corner of the East Texas Penitentiary wall on the South side of the Rusk and Jacksonville public road. Thence South 2 West parallel with and 75 feet East from the brick wall of said East Texas Penitentiary, at 700 feet passing 75 feet East of the S. E. corner of said brick wall, and at 1357 feet to the S. E. line of said A. H. White survey on the N. B. line of John Hundley survey. Thence East with said line at 268 feet cross center line of Texas State Railroad track to Palestine, at 338 feet cross center line of Texas State Railroad track to Palestine, at 338 feet cross center of Texas State Railroad track to Rusk at 508 feet cross center line of the Rusk-Gallatin branch line of Texas & New Orleans Railroad track, and at 1162 feet to the center line of the Rusk and Jacksonville public road. Thence North 4 West with the center line of said road 490 feet to the center of a street or road extending East and West across said Rusk and Jacksonville road. Thence North at 700 feet cross a branch, at 3000 feet a sand field, at 3245 feet cross N. B. line of A. H. White survey and S. B. line of said J. M. Miller survey, at 5600 feet cross another branch, at 5738 feet cross another branch, at 5900 feet cross line of the abandoned tram railroad track to ore beds, at 6650 feet to center line of Texas & New Orleans Railroad track to cattle guard No. 6a. Thence Southwardly with said railroad track as follows, to wit: S. 10 W. 292 feet. S. 37 W. 1320 feet. S. 6 W. 1700 feet. S. 11 E. 1740 feet, a stake 15 feet East of railroad water tank. Thence West at 257 feet pass S. E. corner of H. S. Guinn's tract of land, and at 394 feet to a stake on the S. B. line of

said Guinn tract. Thence South 2 West 1043 feet to the place of beginning.

The East Texas Penitentiary blast furnace, pipe foundry, electric light plant, office building, and several residence buildings, together with railroad tracks, switch tracks, etc. of both the Texas State Railroad and Texas & New Orleans Railroad are situated on the 84.8 acres of said A. H. White survey as shown in the accompanying plat hereto attached.

Surveyed the 23rd and 24th of October, A. D. 1917.

By A. H. Guinn, Surveyor.

Memorandum of Agreement Between The Board of Prison Commissioners and L. P. Featherstone at Huntsville, Texas, December 21, 1917.

The said Featherstone having bid the sum of one hundred and twelve thousand and five hundred dollars for all the property of the Rusk Penitentiary, known as the State's Iron Industry, and fifty cents per ton for ore in ground on fifty per cent metallic content basis, to be paid for as used, and the same having been considered and adjudged by said Commissioners as the best bid, said bid is hereby accepted, and it is agreed that upon the making of a bond in the sum of one hundred thousand dollars in accordance with the terms and conditions set forth in House Concurrent Resolution of the regular session of the Thirty-fifth Legislature and the approval of said bond by the proper authority, and the payment hereinafter specified, that said Commissioners will make title to said property on a date not less than thirty days from the date of the sale of same.

2. It is further agreed by said parties that the land so sold and to be conveyed is described as follows, to wit:

Lying and being situated in Cherokee County, Texas, about one mile northwest from the town of Rusk, and being a part of the A. H. White survey and a part of the J. R. Blanton survey. Beginning at the S. E. corner of H. S. Guinn's tract of land, a rock for corner, thence North 106 feet to a rock for corner on the E. B. line of the said Guinn's tract; thence East, at 250 feet, the T. & N. O. R. R., at 2007, the E. B. line of said White survey, a rock for corner; thence

South with said E. B. line, at 980 feet passing the N. W. corner of a five acre tract known as Block No. 8, in the College Mill subdivision, at 1535 feet passing the S. W. corner of said five acre tract, at 2007 feet the North side of a street or lane connecting the Rusk and Jacksonville and the Rusk and Henderson roads; Thence West 1100 feet with said street to the center of the Rusk and Jacksonville road, thence South 4 degrees with said road 500 feet to the South boundary line of said White survey; thence East 1162 feet to an iron pin for corner; thence North 2 degrees East passing 75 feet East of the Penitentiary wall at 2400 feet, the South boundary line of said Guinn's track a rock for corner; thence East 137 feet to the place of beginning, containing 114 9-10 acres less one acre preserved for the Kilgore graveyard, leaving 113.9 acres herein conveyed; also five acres on the J. R. Blanton survey, known as Block No. 8 in the subdivision of the College Hill tract of 100 acres, and being the same tract of land conveyed by T. Y. T. Jameson to the Commissioners of the Penitentiary of the State of Texas on the 4th day of February, 1886 by deed of record in book R-2, page 225 of the Deed Records of Cherokee County, Texas, to which reference is made for description.

That the land upon which the said Featherstone is to have a lease for fifty years is described as follows, to wit:

Being a part of the A. H. White survey and lying between the Texas State Railroad and a line running parallel with the Rusk Penitentiary 75 feet from the walls of same, and is more particularly described as follows: Beginning at a point 163 feet east of the N. E. corner of said prison walls; thence South 2 degrees West 380 feet parallel with said wall to the N. E. corner of the electric power plant; thence South 40 west 320 feet to a point 140 feet west of the S. E. corner of said wall; thence West 65 feet; thence 2 east 697 feet, a stake; thence east 88 feet to the place of beginning.

3. That both the said L. P. Featherstone, his assigns and successors and the State, its assigns and successors, shall have and exercise free ingress and egress to their re-

spective properties over and across said lands, and that neither of said parties is to so use or obstruct such strip of land as to injure or interfere with the free use and enjoyment of both parties to their respective properties.

4. That said conveyance includes all the mineral rights owned by the State of Texas for the use of said Iron Industry in Cherokee County at fifty cents per ton on ore in ground on a fifty per cent metallic content basis, to be paid for as used, the conveyance to include right-of-way over and across State lands for dirt roads and for railroads for the purpose of mining and removing such ores and any other ores acquired or to be acquired by said Featherstone, his assigns or successors; also, the ore rights, privileges, rights-of-way, etc. owned and held by the State in said county on lands now owned by the State.

5. The said Featherstone to have the right to the free use of the water in the Guinn reservoir and the other reservoir or pool belonging to the State, and the spring or well near the residence of Mrs. Ella Reagan, together with the joint ownership of all pipe lines connecting said water with the blast furnace and other portions of said iron industry, and also joint use of stand pipe west of Prison building, such use to be a joint use with the State. It is further agreed and understood that the expense of maintaining such water supply, the repair of such reservoir, spring and pipe lines, shall be shared equally between said parties. It shall be the duty of the said Featherstone to make all such repairs as may be proper and necessary to the protection of said water supply, said State to pay to him one half the reasonable charges and expense of such maintenance and repairs. The expense of pumping water into stand pipe to be divided in proportion to such water used.

6. All the ore bed railroads, together with the rights-of-way, old road beds, tracks, switches and all appurtenances of same, including all industrial tracks, switches and sidings in and about said iron industry, and such cars, machinery and apparatus as may be on hand belonging to said ore bed railroad, but such conveyance not to include the Texas

State Railroad main line, right-of-way and tracks as it now exists, nor the track extending into the box factory, nor the track extending into the prison yards. This conveyance also to include all the rights acquired by the State from the Texas & New Orleans Railroad Company to the joint use of the track of the said Texas & New Orleans Railroad from the industrial tracks of said iron industry to the ore fields and for which right and privilege said Texas & New Orleans Railroad Company was authorized and permitted to take and use the ore bed railroad for some distance for the construction of its said railroad into Rusk.

7. Said Featherstone is to have, own and possess the electric power plant and all its machinery, building, appliances and appurtenances. Also, the old iron industry office and chemical laboratory and appurtenances.

8. In addition to the property mentioned heretofore, the said Featherstone is to have all the mined iron ore, the limestone and other material on hand at said blast furnace or elsewhere belonging to said iron industry and also all material of any and all description and of whatsoever character or kind belonging to or having belonged to said iron industry that is now on hand or was on hand on the 22nd day of October, 1917, when the same was inspected and inventoried by the agent of said Featherstone.

9. Said Featherstone is to make payment for said property as follows, to wit:

One-fourth in cash when conveyance is made, one-fourth one year from said date, one-fourth on or before eighteen months after said date, and one-fourth on or before two years from said date.

Witness our hands this December 21, 1917.

W. R. DULANEY.

W. G. PRYOR.

L. P. FEATHERSTONE.

Governor's Office,
Austin, Texas, March 4, 1918.

To the Thirty-fifth Legislature in Fourth Called Session:

Gentlemen: Carrying out the provisions of your act contained in House Bill No. 373, approved April 4, 1917, authorizing the sale and extension of Texas State Railroad, I

submit, for your consideration, a statement from the Board of Prison Commissioners showing what has been accomplished in complying with the mandate of your body.

Since, in my judgment, the sale of the Texas State Railroad, under the terms offered, would not be an advantageous one to the State, I submit for your consideration the subject of legislation to properly and adequately deal with the situation.

In this connection I also submit correspondence from the Board of Prison Commissioners relating to the box factory at the Rusk prison which will become isolated when a portion of the penitentiary properties are used for the hospital for the negro insane and a portion is disposed of for the rehabilitation of the State's iron industry.

Respectfully submitted.

W. P. HOBBY,
Governor of Texas.

Huntsville, Texas,
February 11, 1918.

Hon. W. P. Hobby, Governor of Texas, Austin, Texas.

Dear Sir: For your information, beg to advise that on February 1, the date set for receiving bids on the Texas State Railroad, only one bid was received, copy of which we enclose herewith. This matter has been held up, pending a meeting of the full board, and no action has been taken on this bid.

The Commission would be glad to know whether you consider it advisable to take any further action in the premises at the present time.

Yours truly,

BOARD OF PRISON COMMISSIONERS.

(Signed) By Oscar F. Wolff,
Secretary.

(Copy.)

Kansas City, Mo., Jan. 28, 1918.
Board of Prison Commissioners,
Huntsville, Texas.

Gentlemen: If you will accept \$180,000 for the 33 miles of standard gauge railroad with the accessories thrown in and guarantee there will be no objection to moving the rail from one part of Texas to another, let me have early reply and

I will come down and adjust the matter with you.

Yours truly,
MID-WEST IRON COMPANY,
(Signed) P. W. Jones,
Manager.

February 15, 1918.

Hon. Board of Prison Commissioners, Huntsville, Texas.

Gentlemen: This acknowledges your letter of Feb. 11th, with which you have enclosed a bid made by the Mid-West Iron Co., of Kansas City, Mo., in which they have made a tentative offer of \$180,000.00 for the 33 miles of railroad owned by the prison system. I notice that they would expect a guarantee of no objection to removing the rails from one part of Texas to another. I do not think that a sale on these terms should meet the approval of the Commission or myself. Consequently, I suggest that you disregard the offer.

Yours very truly,
Signed: W. P. HOBBY,
Governor of Texas.

Board of Prison Commissioners,
Huntsville, Texas, Feb. 25, 1918.

Hon. W. P. Hobby, Governor of Texas, Austin, Texas.

Dear Sir: When the Rusk prison property is turned over to the Asylum for the Negro Insane the box factory connected with the prison will be left idle and no longer available for use by the Prison System. This factory is outside the wall of the prison proper and neither the factory nor the land on which it is located will be of any use or value to the asylum. The Commission, therefore, begs to suggest the advisability of advertising the box factory for sale, together with the land on which it is located, and would be glad to know

what you think of the propriety of this action and whether you would approve same.

Yours truly,
BOARD OF PRISON COMMISSIONERS.

By (Signed) Oscar F. Wolff,
Secretary.

Governor's Office,

Austin, Texas, March 4, 1918.

To the Thirty-fifth Legislature in Fourth Called Session:

Gentlemen: It is proper that the Governor shall give to the Legislature information, by message, of the condition of the State, and so I submit for your information a financial statement prepared by the State Treasurer, covering the first half of the current fiscal year. I also submit for your information a statement prepared by the Comptroller showing item by item the total appropriations made by the Thirty-fifth Legislature during the regular session and the first, second and third called sessions.

My object in submitting both these reports is to acquaint you in detail with the financial condition of the State and to permit the printing of both statements in the Journal for reference by members of the Legislature.

Respectfully submitted,
W. P. HOBBY,
Governor of Texas.

Austin, Texas, March 4, 1918.

Hon. W. P. Hobby, City.

Dear Sir: Agreeably with your request for a financial statement of the State Treasury, beginning with the fiscal year, September 1, 1917, up to and including February 28, 1918, I beg to submit the following for your consideration:

Total appropriations made at the Regular and First, Second and Third Called Sessions of the Thirty-fifth Legislature, was	\$ 16,497,215.27
Deduct:	
Amount repealed and suspended	1,726,800.00
Leaves a net appropriation of	\$ 14,770,415.27
Less:	
Amount paid prior to September 1, 1917	1,311,797.52
Leaving an amount of	\$ 13,458,617.75
Add to this the amount of old appropriations made by the Thirty-fourth Legislature, which has been paid since September 1, 1917	356,418.26
	\$ 13,815,036.01

And deducting for appropriations that have lapsed back into the Treasury.....	\$ 200,000.00
Leaves the amount to be paid during the fiscal year beginning September 1, 1917, and ending August 31, 1918, the sum of.....	\$ 13,615,036.01
The total taxable values of the State as shown by the various county assessors is \$2,871,744,269, a thirty-five cent tax rate on that amount will produce the sum of...	\$ 10,051,104.00
After deducting 20 per cent for assessing, collecting and delinquents, as provided by law, or the amount of....	2,010,220.80
Leaves the net amount to be derived from ad valorem taxes the sum of.....	\$ 8,040,883.20
Add to this, receipts from other sources.....	2,815,218.87
Add cash balance on hand September 1, 1917 of.....	3,045,291.67
Making a grand total of.....	\$ 13,901,393.74
Less appropriations available during this fiscal year.....	13,615,036.01
Leaves a surplus of.....	\$ 286,357.73
Total appropriations to be paid during this fiscal year shows to be	\$ 13,615,036.01
During the period between September 1, 1917, and March 1, 1918, we paid General Revenue Warrants to the amount of	5,670,107.00
Leaving a balance to be paid during the balance of this fiscal year, amounting to.....	\$ 7,944,929.01
We have on hand to the credit of General Revenue, the sum of	5,887,602.51
Which leaves the amount to be received during the remainder of this fiscal year, the sum of.....	\$ 2,057,316.50

The above figures do not take into consideration the loss in general revenue, due to refunds on liquor licenses of counties and cities that have gone dry this year, and the saloons that will be closed by the zone legislation, which will amount to \$600,000 in round figures; that taken into consideration, shows there will be a net deficit in the General Revenue Fund of an approximate amount of \$315,000 at the close of this fiscal year.

On September 1st, there was the sum of \$1,326,565.39 credit to the available school fund. Since that date we have received and paid out the sum of \$7,393,756, or \$6.00 per head for each scholastic in the State, and have at this time the sum of \$220,113.58 to the credit of that fund.

On September 1st, there was \$491,592.67 cash and \$20,432,445.79 in bonds to the credit of the Permanent School Fund. Since that date there has been received for this fund

the sum of \$482,592.38, which includes bond redemptions and receipts from other sources, and the State Board of Education has purchased \$848,665.80 of bonds, leaving a balance to this fund in the sum of \$125,519.25 in cash, and bonds to the amount of \$21,281,111.59.

On September 1st, the Confederate Pension Fund had a credit of \$470,800.32. Received since that date \$975,972.05, disbursed \$643,817.98, leaving a balance of \$802,958.44.

On September 1st, the Highway Commission Fund had a balance of \$582,394.99, received since that date the sum of \$750,000, disbursed \$455,779.24, leaving a balance of \$876,623.87.

On September 1st, there was the sum of \$80,126.25 to the credit of the Prison Commission account. Receipts since that date have been \$2,274,824.47, disbursements have been \$1,219,995, leaving a balance

of \$1,134,955.72 to the credit of that account.

On September 1st, there was \$85,-461.47 to the credit of the Fish and Oyster Fund, and \$38,859.27 to the credit of the Game, Fish and Oyster Fund. These amounts have been transferred to the General Revenue Fund, but at present the Game, Fish and Oyster Fund has a credit of \$38,-159.71, and the Fish and Oyster Fund a credit of \$24,001.93, which has accumulated since September 1, and which shows that these two accounts are valuable revenue producers.

We have about forty other special and miscellaneous accounts, containing the total sum of \$316,193.06,

which are not active accounts, and some of them can be abolished and their balances transferred to the General Revenue.

The grand total of all balances in the State Treasury at the close of business, -February 28th, was \$9,425,061.42 and of this amount I had the sum of \$5,000,000 in transit to Dallas on that date for the purchase of United States Government Certificates of Indebtedness.

Trusting that this statement meets with your approval and will be of some service and information to you, I beg to remain,

Yours respectfully,

J. M. EDWARDS,
State Treasurer.

APPROPRIATIONS OF THE REGULAR SESSION OF THE THIRTY-FIFTH LEGISLATURE AND THE FIRST, SECOND, AND THIRD CALLED SESSIONS, SHOWING APPROPRIATIONS REPEALED AND SUSPENDED.

Appropriations made at the Regular Session of the Thirty-fifth Legislature.

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
S.B.	124	44	A. and M.	\$ 4,400.00	
S.B.	123	33	A. and M.	136,150.00	
H.B.	360	332	Bureau Vital Statistics	8,000.00	
S.B.	203	15	College Industrial Arts	157,000.00	
H.B.	849	356	Confederate Home ..	1,500.00	
H.B.	837	344	Contg. Exp. Leg.	20,000.00	
S.B.	231	440	East Texas Normal...	80,000.00	
S.B.	449	262	Grubbs Vocational School	41,664.00	\$ 8,334.00
S.B.	159	62	State Health Dept....	70,000.00	
H.B.	2	426	State Highway Com...	10,000.00	
H.B.	451	446	Negro Insane Asylum	200,000.00	
H.B.	831	486	Repair Land Office..	10,000.00	
S.B.	467	298	Tick eradication	21,832.80	
S.B.	32	2	Mileage and per diem	125,000.00	
H.B.	72	428-9	2 Normal Colleges ..	301,000.00	60,000.00
S.B.	82	468	N. Texas A. and M..	250,000.00	
S.B.	148	61	N. Texas State Normal	6,000.00	
S.B.	47	39	Summer Normal	65,000.00	
H.B.	465	405	N.W. Insane Asylum..	400,000.00	
S.B.	40	6	Prairie View State Normal	50,000.00	
S.B.	21	1	Presidential electors .	5,000.00	
H.B.	783	450-9	Prison System	312,266.59	342,266.59
H.B.	732	264	Public Buildings and Grounds	1,799.66	
H.B.	47	7	Quarantine station ..	5,625.00	
H.B.	501	263	Quarantine station— Sabine	65,000.00	
S.B.	68	53	Regulation pipe line..	5,000.00	
H.B.	226	151	Rural schools	1,000.00	100,000.00
S.B.	133	34	School for Blind.....	152,500.00	
H.B.	103	87-8	School for Mines....	100,000.00	
S.B.	334	254	S. W. State Normal..	3,250.00	
S.J.R.	12	501	Amend Constitution..	5,000.00	

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
H.J.R.	2	502	Amend Constitution..	\$ 5,000.00	
H.J.R.	27	503	Amend Constitution..	2,000.00	
H.B.	46	47-8	West Texas A. and M	501,500.00	
S.B.	214	35	West Texas Normal ..	3,600.00	
S.B.	33	3	Contg. Exp. Leg.	30,000.00	
S.B.	397	443	Sul Ross Normal	240,000.00	
Total				\$ 3,396,088.05	\$ 1,410,600.59

First Called Session.

S.B.	1	1	Contg. Exp. Leg.	\$ 65,000.00	
S.B.	2	2	Contg. Exp. Leg.	16,000.00	
S.B.	14	5	Military forces	750,000.00	
H.B.	5	7	Rural schools	999,000.00	
H.B.	87	9	State Council of De- fense	25,000.00	
H.B.	15	10	Authorized deficiencies	262,210.13	
H.B.	20	12	Eradication citrus canker	24,000.00	
S.B.	8	26	Employe Liability Act	1,925.00	
S.B.	39	28	School for the Blind..	1,305.00	
S.B.	23	29	Home for lepers.....	25,000.00	
H.B.	17	37	Emergency appropria- tion	134,379.24	
H.B.	1	38	Supreme Court	31,660.00	31,160.00
H.B.	1	39	Court Criminal Appeals	32,708.00	31,958.00
H.B.	1	40	Court Civil Appeals— First District	15,555.00	15,455.00
H.B.	1	41	Court Civil Appeals— Second District ..	15,830.00	14,905.00
H.B.	1	42	Court Civil Appeals— Third District	17,230.00	17,055.00
H.B.	1	43	Court Civil Appeals— Fourth District ..	15,005.00	15,005.00
H.B.	1	43	Court Civil Appeals— Fifth District	14,905.00	14,805.00
H.B.	1	44	Court Civil Appeals— Sixth District	15,105.00	15,105.00
H.B.	1	44	Court Civil Appeals— Seventh District...	15,030.00	14,755.00
H.B.	1	45	Court Civil Appeals— Eighth District ..	15,240.00	15,130.00
H.B.	1	45	Court Civil Appeals— Ninth District ...	14,955.00	14,955.00
H.B.	1	45	Judiciary	1,005,600.00	1,032,600.00
S.B.	28	57	Ranger Home Guard..	250,000.00	
H.B.	8	61	Joint Resolution No. 2	1,500.00	
H.B.	97	65	Warehouse market law	5,000.00	
H.B.	2	84	State Orphan Home..	226,435.00	78,425.00
H.B.	2	86	Confederate Home ..	143,820.00	100,970.00
H.B.	2	88	Confederate Womans Home	36,570.00	28,970.00
H.B.	2	89	Epileptic Colony	127,030.00	121,780.00
H.B.	2	91	Deaf, Dumb and Blind Institute for Col'd	92,320.00	43,995.00
H.B.	2	92	Training of Juveniles	254,930.00	150,430.00
H.B.	2	94	Girls' Training School	80,610.00	38,260.00
H.B.	2	95	State Tuberculosis San- itarium	311,440.00	263,140.00
H.B.	2	97	State Lunatic Asylum	358,526.00	350,426.00
H.B.	2	100	State Pasteur Institute	5,150.00	5,000.00

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
H.B.	2	101	Southwestern Insane Asylum	\$ 549,440.00	\$ 363,190.00
H.B.	2	103	N. T. Hospital for the Insane	357,730.00	354,730.00
H.B.	2	105	State Hospital for Crippled Children	7,740.00	7,740.00
H.B.	2	105	Colony for Feeble-minded	132,756.00	56,240.00
H.B.	13	126	School of Mines	26,510.00	27,477.00
H.B.	13	127	A. and M. College salaries	191,390.00	191,390.00
H.B.	13	132	A. and M. College Administration	232,745.00	336,760.00
H.B.	13	134	A. and M. Extension service	95,920.00	125,895.00
H.B.	13	135	A. and M. hog cholera serum	8,460.00	8,460.00
H.B.	13	136	Agricultural Exp. Sta. and substation	230,855.00	182,145.00
H.B.	13	150	Prairie View Normal	127,258.00	78,030.00
H.B.	13	154	College Industrial Arts for Women	379,865.00	174,090.00
H.B.	13	158	Sam Houston Normal Institute	188,550.00	112,200.00
H.B.	13	160	North Texas Normal	231,985.00	149,950.00
H.B.	13	163	S. W. Texas State Normal	199,550.00	109,150.00
H.B.	13	165	West Texas State Normal	111,445.50	98,843.00
H.B.	13	167	East Texas State Normal	88,860.00	88,860.00
H.B.	13	169	Texas School for Blind	91,645.00	90,795.00
H.B.	13	173	Deaf and Dumb Instl.	208,668.00	169,218.00
H.B.	13	177	Jno. Tarleton Agricultural College	167,250.00	55,300.00
H.B.	13	179	Grubbs Vocational College	164,300.00	66,500.00
S.B.	16	193	Text Book Commission	4,000.00	
S.B.	54	195	Federal Vocational Educ. Act	62,150.00	91,105.00
H.B.	14	196	Deficiency	243,239.52	
H.B.	53	198	Executive Office	26,486.00	24,986.00
H.B.	53	199	Mansion and Grounds	6,500.00	6,500.00
H.B.	53	200	Board of Pardons	6,750.00	6,750.00
H.B.	53	200	Department of State	25,197.00	24,950.00
H.B.	53	201	State Revenue	13,700.00	13,650.00
H.B.	53	202	Public Buildings and Grounds	73,335.75	63,400.00
H.B.	53	204	Inspector of Masonry	11,475.00	11,475.00
H.B.	53	205	Department of Insurance and Banking	123,386.00	128,486.00
H.B.	53	206	State Fire Ins. Com.	130,000.00	130,000.00
H.B.	53	208	Texas State R. R.	35,683.00	7,500.00
H.B.	53	210	Employees Liability Act	32,407.00	31,657.00
H.B.	53	211	Texas Library and Historical Commission	16,280.00	17,280.00
H.B.	53	212	State Tax Board	4,844.00	4,844.00
H.B.	53	212	State Purchasing Ag't	10,155.00	9,980.00
H.B.	53	213	Public Printing	42,200.00	42,200.00
H.B.	53	213	Bureau of Labor Statistics	18,800.00	18,800.00

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
H.B.	53	214	Adjutant General's Department	\$ 124,930.00	\$ 124,930.00
H.B.	53	215	State Board of Health	100,460.00	96,360.00
H.B.	53	218	Game, Fish and Oyster Commission	55,450.00	48,850.00
H.B.	53	220	Livestock Sanitary Com	121,500.00	121,500.00
H.B.	53	221	State Mining Board..	3,425.00	3,425.00
H.B.	53	222	Pure Food Commission	33,080.00	33,080.00
H.B.	53	222	State Pension Depart.	7,030.00	6,965.00
H.B.	53	223	Attorney General's Department	70,330.00	70,330.00
H.B.	53	225	Dept. of Education...	67,580.00	67,580.00
H.B.	53	226	Treasurer's Departm't	15,430.00	15,430.00
H.B.	53	228	Comptroller's Dept. ..	115,360.00	115,360.00
H.B.	53	230	General Land Office...	182,980.00	90,680.00
H.B.	53	232	Railroad Commission.	43,380.00	43,380.00
H.B.	53	233	Dept. of Agriculture..	98,340.00	98,340.00
H.B.	53	235	Board of Water Eng..	45,950.00	45,950.00
H.B.	53	235	Warehouse and Marketing Dept.....	55,700.00	55,700.00
H.B.	53	236	State Reclamation Department	24,680.00	24,680.00
H.B.	78	244	Miscellaneous appropriation	417,006.52	135,091.00
H.B.	73	256	Prison Com. claim...	46,612.00	49,061.53
Total appropriations First Called Session				\$11,714,708.73	\$ 7,135,504.18

Second Called Session.

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
H.B.	2	1	Mileage and Per Diem..\$	65,000.00	
S.B.	2	2	Contg. Exp.	125,000.00	
S.B.	2	3	Main University	718,898.50	709,398.50
S.B.	3	17	University Med. branch	98,755.00	98,755.00
Total appropriations Second Called Session				\$ 1,007,653.50	\$ 808,153.50

Third Called Session.

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
S.B.	5	49	Mileage and Per Diem..\$	65,000.00	
S.B.	4	50	Contg. Exp.	25,000.00	
S.B.	13	58	Ferguson Farm Negro Boys	25,000.00	
S.B.	7	67	Pink Boll Weevil Zone Tax	5,000.00	5,000.00
H.B.	57	85	Contg. Exp.—extra ..	35,000.00	
H.B.	32	88	Repair buildings, N. T. Insane Asylum	18,000.00	
H.B.	22	89	Additional appropriation on account of omissions	186,764.99	57,900.00
H.B.	58	99	Appropriations for construction of three State Normals		200,000.00
S.B.	10	100	Training Juveniles, ad.	19,000.00	
Total appropriations Third Called Session				\$ 378,764.99	\$ 262,900.00

Recapitulation.
(All sessions of the Thirty-fifth Legislature.)

Appropriations Regular Session	\$ 3,396,088.05	\$ 1,410,600.59
Appropriations First Called Session.....	11,714,708.73	7,135,504.18
Appropriations Second Called Session ...	1,007,653.50	888,153.50
Appropriations Third Called Session	378,764.99	262,900.00

Total gross appropriations.....\$16,497,215.27 \$ 9,697,158.27

Appropriations Amended, Repealed and Suspended, Third Called Session
of the Thirty-fifth Legislature.

Bill.	No.	Page		Year ending August 31, 1918	Year ending August 31, 1919
S.B.	13	58	Repeal of purchase of land for Juvenile School, see First Called Session, p. 93	\$ 50,000.00	
H.B.	50	72	Repeal A. and M. Col- lege West Texas see Regular Session Chapter 29	500,000.00	
H.B.	51	73	Repeal North Texas Junior A. and M. College, Chap. 204, Regular Session ..	250,000.00	
H.B.	63	83	Repeal Maintenance Military Forces in part, see Chap. 5, First Called Session	350,000.00	
H.B.	22	94	Repeal account errors and omissions, see First Called Session departments	36,800.00	36,800.00
H.B.	58	99	Repeal Sul Ross State Normal, see Chap. 197, Regular Ses- sion	240,000.00	
H.B.	58	99	Repeal Stephen F. Austin Normal, see Chap. 191, Regular Session	150,000.00	30,000.00
S.B.	10	100	Amended Juvenile Training School, reducing approp- riations, see First Called Session p.93		6,000.00

Total amount repealed.....\$ 1,726,800.00 \$ 102,800.00

Total gross amount appropriated.....\$16,497,215.27 \$ 9,697,158.27
Less amount repealed and suspended.... 1,726,800.00 102,800.00

Net amount appropriated by Thirty-
fifth Legislature\$14,770,415.27 \$ 9,594,358.27

Net amount appropriated for year 1918.....\$14,770,415.27
Net amount appropriated for year 1919..... 9,594,358.27

Total amount appropriated by Thirty-fifth Legislature \$24,364,773.54

By reference to the Acts of the Thirty-fifth Legislature you will find

numerous errors as to total footings. This statement is made after a careful examination as to specific appropriations and I think you will find same correct.

(Signed) L. W. TITTLE,
Acting Comptroller.

House Bill No. 15.

(By unanimous consent.)

Senator Clark moved that the constitutional rule requiring bills to be read on three several days be suspended and House Bill No. 15 put on its second reading.

The motion prevailed by the following vote:

Yeas—25.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Faust.	Suiter.
Floyd.	Westbrook.
Gibson.	

Absent.

Caldwell.	Hudspeth.
Hall.	

Absent—Excused.

McCollum.	Woodward.
McNealus.	

The Chair laid before the Senate on second reading:

H. B. No. 15, A bill to be entitled "An Act declaring that if any person shall during the time the United States of America is at war, use any language in the presence and hearing of another, of and concerning the United States of America, the entry or continuance of the United States of America in the war, or of and concerning any flag, standard, color or ensign of the United States of America, or any imitation thereof, or that of any officer of the United States of America, which language is disloyal to the United States of America, or abusive in character and calculated to bring into disrepute the United States of America, the entry or continuance of the United States of America in the war; the army, navy, marine corps of the United

States of America or any flag, standard, color or ensign of the United States of America, or any imitation thereof, or that of any officer of the United States of America, of such nature as to be reasonably calculated to provoke a breach of the peace, if said in the presence and hearing of a citizen of the United States of America, shall be a felony, and fixing the punishment for such action to confinement in the State penitentiary for any period of time not less than one year nor more than twenty-five years; declaring that if any person shall, during the time the United States of America is at war, commit to writing, or printing, or both writing and printing, by letters, words, signs, figures, or in any other manner and in any language anything of the kind of and concerning those things just enumerated in this caption, and of the kind and character thus stated in this caption that such person shall be guilty of a felony and shall be punished as above stated; declaring that any person who shall publicly or privately mutilate, deface, defile, defy, tramp upon or cast contempt, either by words or acts, upon any flag, standard, color or ensign of the United States of America, or that of any of its officers, or either of them, shall be guilty of a felony and punished as just stated; declaring that any person who during the war between the United States and any other nation shall display or have in his possession for any purpose whatsoever, any flag, standard, color, or ensign, or coat of arms of any nation with which the United States is at war, or any imitation thereof, or that of any State, subdivision, city or municipality of any such nation shall be guilty of a felony and punished by confinement in the penitentiary for the length of time first stated in this caption; authorizing any person, officer, or other person to arrest, without warrant, anyone violating any section of this Act; prescribing the force and measures which may be adopted in such case; declaring

that any person, officer or other person about to make such arrest shall have authority to require any person violating the provisions of this Act to desist from such violation, and authorizing the use of such force and measures as are necessary to cause such person to so desist; fixing venue and jurisdiction for violations of this Act in the district courts of the counties in which such violations occur and in the district court of Travis County, Texas; providing that the suspended sentence law of this State shall not apply in convictions of this Act; and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

On motion of Senator Dean, the committee report was amended so as to read "and be not printed."

The committee report was adopted.

Senator Robbins offered the following amendment which was read and adopted:

Amend House Bill No. 15, page 3, at the end of line 2, by changing the word "or" to the word "of."

ROBBINS.

Senator Page offered the following amendment which was read and adopted:

Amend the bill by striking out in line 16, section 5, page 4, the word "any." Amend the bill further, page 4, line 16, by striking out the words "or any other person." Amend the bill further, page 4, line 19, by striking out the words "or other person." Amend the bill further, page 4, line 22, by striking out the word "person" and "or other person."

PAGE.

BEE.

HENDERSON.

Senator Bee offered the following amendment which was read:

(3) Amend the bill by inserting after the word "America," line 31, page 2, the words "or of the President of the United States."

BEE.

Senator Lattimore offered the following substitute for the pending amendment, which was read:

Amend House Bill No. 15, page 2, line 28, by inserting after the word

"America" the following, "or the President of the United States or."

LATTIMORE.

BEE.

The amendment was substituted and then adopted as a substitute.

Senator Bailey offered the following amendment which was read:

Amend the bill by striking out in line 30, page 4, the words "or in Travis County" and striking out at the end of section 6, the words "and in the district court of Travis County" and amend the caption of the bill so as to make it conform to the bill as hereby amended.

BAILEY.

HOPKINS.

Senator Clark moved to table the amendment and the motion prevailed.

Senator Caldwell offered the following amendment which was read and adopted:

(4) Amend printed bill by inserting after the word "America" page 3, line 3, and also after the word "States" where it first occurs in line 23, page 3, the following, "or the President of the United States or."

CALDWELL.

Senator Henderson offered the following amendment, which was read and adopted:

(5) Amend the bill by striking out figure "7" in line 2, page 5, and insert figure "8."

Amend bill by adding a new section after section 6, to be known as section 7, to read as follows:

"It shall be the duty of any person, who shall hear, see or know of any person violating any of the provisions of this Act to immediately report the same to some officer authorized to make arrests in such cases, and it shall be the duty of said officer to forthwith cause the arrest of such person, or persons, against whom such charge has been filed, and to immediately carry him before some officer whose duty it shall be to thoroughly investigate the charges, and to make such orders and to enter such judgements as to such person as the law may direct."

Amend the caption to conform.

HENDERSON.

Senator Lattimore offered the fol-

lowing amendment which was read and adopted:

(6) Amend House Bill No. 15, section 2, line 5, by inserting after the word "States" the following, "or the President of the United States or."

LATTIMORE.
BEE.

Senator Bee offered the following amendments which were read and adopted:

(7) Amend the bill by striking out the words "that of" in line 1, page 3, and insert in lieu thereof, the words "the uniform of" and after the word "officer" in line 1, page 3, the words "of the army" and amend the caption to conform thereto.

(8) Amend the bill by striking out the words "that of" in line 6, page 3, and insert the words "the uniform of" and insert in line 6, page 3, after the word "the" at the end of said line the words "of the army" and amend the caption to conform thereto.

(9) Amend the bill by striking out the word "that" in line 21, page 3, and insert after the word "any" in line 21, page 3, the word "uniform," and amend the caption to conform thereto.

BEE.

Senator Smith offered the following amendment which was read and adopted:

(10) Amend the bill, page 4, line 2, by erasing the second word "upon."

SMITH.

The bill was read second time and passed to its third reading.

On motion of Senator Clark, the constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 15 put on its third reading and final passage by the following vote:

Yeas—25.

Alderdice.	Dean.
Bailey.	Decherd.
Bee.	Faust.
Buchanan of Bell.	Floyd.
Buchanan of Scurry.	Gibson.
Clark.	Hall.
Collins.	Henderson.
Dayton.	Hopkins.

Johnson of Hall.	Smith.
Johnston of Harris.	Strickland.
Lattimore.	Sulter.
Parr.	Westbrook.
Robbins.	

Absent.

Caldwell.	Page.
Hudspeth.	

Absent—Excused.

McCollum.	Woodward.
McNealus.	

The bill was laid before the Senate, read third time and, on motion of Senator Clark, was passed by the following vote:

Yeas—25.

Alderdice.	Hall.
Bailey.	Henderson.
Bee.	Hopkins.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Lattimore.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Faust.	Sulter.
Floyd.	Westbrook.
Gibson.	

Absent.

Caldwell.	Johnston of Harris.
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Absent—Excused.

Hudspeth.	McNealus.
McCollum.	Woodward.

Senator Lattimore moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

House Bill No. 10.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

H. B. No. 10, A bill to be entitled "An Act to amend Article 611 of the Penal Code of Texas, adopted in 1911, so as to prohibit the sale of spirituous or vinous liquors in quantities of one gallon or less, without taking out a license as a retail liquor dealer; prescribing a penalty for the violation of this Act; providing that pros-

ecutions under this Act shall have precedence upon the dockets of the district court; providing that persons convicted of violations of this Act shall not have the benefits of the Suspended Sentence Act, and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

Senator Dean offered the following amendments which were read and adopted, seriatim:

(1) Amend the bill by striking out section 1 and inserting in lieu thereof the following:

"Section 1. That Article 612 of the Penal Code of Texas, adopted in 1911, be so amended as hereafter to read as follows:

"If any person, not a licensed retail malt dealer, shall hereafter, within this State, sell, directly or indirectly, malt liquor capable of producing intoxication, in quantities of one gallon or less, he shall be deemed guilty of a felony and upon conviction thereof shall be punished by confinement in the State penitentiary for a term of not less than two nor more than five years. A single sale by any person other than a regularly licensed retail malt dealer shall constitute a violation of this Act and each sale shall be a separate offense. Provided that this article shall not apply to a licensed retail liquor dealer and a retail liquor dealer's license shall be construed to embrace a retail malt dealer's license."

(2) Amend the bill by striking out the caption and inserting in lieu thereof the following:

"An Act to amend Article 612 of the Penal Code of Texas, adopted in 1911, so as to prohibit the sale of malt liquors, capable of producing intoxication, in quantities of one gallon or less, by any person except a licensed retail malt dealer; prescribing a penalty for the violation of this Act; providing that prosecutions under this Act shall have precedence upon the dockets of the district courts; providing that persons convicted of violation of this Act shall not have the benefits of the Suspended Sentence Act, and declaring an emergency."

The bill was read second time and passed to its third reading.

On motion of Senator Dean, the constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 10 put on its third reading and final passage by the following vote.

Yeas—24.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Faust.	Strickland.
Floyd.	Sulter.
Gibson.	Westbrook.

Nays—1.

Clark.

Present—Not Voting.

Hall.

Absent.

Caldwell.

Absent—Excused.

Hudspeth.

McNealus.

McCollum.

Woodward.

The bill was laid before the Senate, read third time and, on motion of Senator Dean, was passed by the following vote:

Yeas—24.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Faust.	Strickland.
Floyd.	Sulter.
Gibson.	Westbrook.

Nays—1.

Clark.

Present—Not Voting.

Hall.

Absent.

Caldwell.

Absent—Excused.

Hudspeth.

McNealus.

McCollum.

Woodward.

Senator Dean moved to reconsider the vote by which the bill was passed, and table the motion to reconsider.

The motion to table prevailed.

House Bill No. 11.

(By unanimous consent.)

The Chair laid before the Senate on second reading:

H. B. No. 11, A bill to be entitled "An Act to amend Article 612 of the Penal Code of Texas, adopted in 1911, so as to prohibit the sale of malt liquors capable of producing intoxication, in quantities of one gallon or less without taking out a license as a retail malt dealer; prescribing a penalty for the violation of this Act; providing that prosecutions thereunder shall have precedence in the district court; providing that persons convicted for violations of this Act shall not have the benefit of the Suspended Sentence Act, and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

Senator Dean offered the following amendments which were read and adopted, seriatim:

(1) Amend the bill by striking out section 1 and inserting in lieu thereof the following:

"Section 1. That Article 612 of the Penal Code of Texas, adopted in 1911, be so amended as hereafter to read as follows:

"If any person, not a licensed retail malt dealer, under this State shall hereafter, within this State, sell, directly or indirectly, malt liquor capable of producing intoxication, in quantities of one gallon or less, he shall be deemed guilty of a felony and upon conviction thereof shall be punished by confinement in the State penitentiary for a term not less than two nor more than five years. A simple sale by any person other than a regularly licensed retail malt dealer shall constitute a violation of this Act and each sale shall be a separate offense. Provided that this article shall not apply to a licensed retail liquor dealer and a retail liquor dealer's license shall be construed to embrace malt dealer's license."

(2) Amend the bill by striking out the caption and inserting in lieu thereof the following:

"An Act to amend Article 612 of the Penal Code of Texas, adopted in 1911, so as to prohibit the sale of malt liquors, capable of producing intoxication, in quantities of one gallon or less, by any person except a licensed retail malt dealer; prescribing a penalty for the violation of this Act; providing that prosecutions under this Act shall have precedence upon the dockets of the district courts; providing that persons convicted in violation of this Act shall not have the benefits of the Suspended Sentence Act, and declaring an emergency."

The bill was read second time and passed to its third reading.

On motion of Senator Dean, the constitutional rule requiring bills to be read on three several days was suspended and House Bill No. 11 put on its third reading and final passage by the following vote.

Yeas—25.

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall.
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry.	Lattimore.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Faust.	Strickland.
Floyd.	Suiter.
Gibson.	Westbrook.
Hall.	

Nays—1.

Clark.

Absent.

Caldwell.

Absent—Excused.

Hudspeth.	McNealus.
McCollum.	Woodward.

The bill was laid before the Senate, read third time and, on motion of Senator Dean, was passed by the following vote:

Yeas—25.

Alderdice.	Dayton.
Bailey.	Dean.
Bee.	Decherd.
Buchanan of Bell.	Faust.
Buchanan of Scurry.	Floyd.
Collins.	Gibson.

Hall.	Parr.
Henderson.	Robbins.
Hopkins.	Smith.
Johnson of Hall.	Strickland.
Johnston of Harris.	Suiter.
Lattimore.	Westbrook.
Page.	

Nays—1.

Clark.

Absent.

Caldwell.

Absent—Excused.

Hudspeth.	McNealus.
McCollum.	Woodward.

Senator Dean moved to reconsider the vote by which the bill was passed and table the motion to reconsider.

The motion to table prevailed.

House Bill No. 14.

(By unanimous consent.)

Senator Dean moved that the constitutional rule requiring bills to be read on three several days be suspended and House Bill No. 14 put on its second reading.

The motion prevailed by the following vote:

Yeas—26.

Alderdice.	Hall.
Bailey.	Henderson.
Bee.	Hopkins.
Buchanan of Bell.	Johnson of Hall.
Buchanan of Scurry.	Johnston of Harris.
Clark.	Lattimore.
Collins.	Page.
Dayton.	Parr.
Dean.	Robbins.
Decherd.	Smith.
Faust.	Strickland.
Floyd.	Suiter.
Gibson.	Westbrook.

Absent.

Caldwell.

Absent—Excused.

Hudspeth.	McNealus.
McCollum.	Woodward.

The Chair laid before the Senate on second reading:

H. B. No. 14, A bill to be entitled 'An Act to prohibit making an appointment for, or soliciting any person in the service of the United States military or naval forces to meet or

come in contact with any immoral woman, for the purpose of unlawful sexual intercourse; prohibiting any person operating a vehicle for hire from transporting any person engaged in the service of the United States military or naval forces to any place for the purpose of unlawful sexual intercourse; prohibiting any person operating a vehicle for hire from transporting any woman for purpose of meeting anyone engaged in the service of the United States military or naval forces for the purpose of unlawful sexual intercourse; prohibiting any person operating a vehicle for hire from transporting any woman accompanied by any person engaged in the military or naval forces of the United States to any place for the purpose of unlawful sexual intercourse; providing a penalty for the violation of this Act, and declaring an emergency."

The Senate rule requiring committee reports to lie over one day was suspended.

The committee report that the bill be not printed was adopted.

Senator Dean offered the following amendment which was read and adopted:

Strike out the word "unlawful" in last lines of Sections 1, 2, 3 and 4, and amend the caption to correspond.

DEAN.

On motion of Senator Dean, the bill was laid on the table subject to call.

House Bill No. 18. Printed in Journal.

Senator Gibson moved that House Bill No. 18 be printed in the Journal in connection with the opinion of the Attorney General on same.

The motion prevailed and the bill will be found in the appendix.

Message from the House.

Hall of House of Representatives.
Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 3, Inviting Miss Marie Von Gastel to address the Thirty-fifth Legislature:

Whereas, Miss Von Gastel, a Belgian refugee, is now making a speaking tour of the United States of America in the interest of the third Liberty Loan, soon to be floated by the United States Government; and,

Whereas, Miss Von Gastel is now in the State of Texas; therefore be it

Resolved by the House of Representatives of the Legislature of Texas, the Senate concurring, That Miss Von Gastel be invited to address a joint meeting of the Legislature in the Hall of the House of Representatives, at eight o'clock, p. m. Wednesday, March 6, 1918, and that the public be invited to hear the said address.

Resolved second, That the Chief Clerk of the House be instructed to notify Miss Von Gastel immediately of this invitation.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

House Concurrent Resolution No. 3.

The Chair laid before the Senate: H. C. R. No. 3, Inviting Miss Marie Von Gastel to address the Thirty-fifth Legislature.

The resolution was read and on motion of Senator Dean, the same was adopted.

Adjournment.

At 4:40 o'clock p. m. the Senate, on motion of Senator Lattimore adjourned until 10 o'clock tomorrow morning.

APPENDIX.

Petitions and Memorials.

The Chair laid before the Senate the following:

Telegram.

Washington, D. C. March 4, 1918.

Hon. W. P. Hobby, Governor, Austin, Texas.

I have been advised that the Texas Legislature has authorized purchase on part of the State of five million dollars United States Treasury Certificates of Indebtedness. I desire to express my deep appreciation of this patriotic action on the part of the great State of Texas as repre-

sented by the Legislature and yourself.

W. G. McADOO.

Engrossing Committee Reports.

Committee Room.

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 15 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Room.

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: Your Committee on Engrossed Bills has had Senate Bill No. 1 carefully compared, and finds the same correctly engrossed.

ALDERDICE, Chairman.

Committee Reports.

Committee Room.

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: Your Committee on Military Affairs, to whom was referred Senate Concurrent Resolution No. 3, beg leave to report that we have had same under consideration, and I am instructed by the Committee to report same back to the Senate to take such action as it may see fit, because in the judgment of your Committee, it has no jurisdiction over this resolution.

FAUST, Acting Chairman.

Committee Room.

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem, of the Senate.

Sir: Your Committee on Criminal Jurisprudence, to whom was referred H. B. No. 10, A bill to be entitled "An Act to amend Article 611 of the Penal Code of Texas, adopted in 1911, so as to prohibit the sale of spirituous or vinous liquors in quantities of one gallon or less, without taking out a license as a retail liquor dealer; prescribing a penalty for the viola-

tion of this Act; providing that prosecutions under this Act shall have precedence upon the dockets of the district courts; providing that persons convicted of violations of this Act shall not have the benefits of the suspended sentence act and declaring an emergency."

Have had the same under consideration, and I beg to report the same back to the Senate with the recommendation that it do pass, and be not printed.

PAGE, Chairman.

Committee Room.

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem. of the Senate.

Sir: Your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 11, A bill to be entitled "An Act to amend Article 612 of the Penal Code of Texas, adopted in 1911, so as to prohibit the sale of malt liquors capable of producing intoxication, in quantities of one gallon or less without taking out a license as a retail malt dealer; prescribing a penalty for the violation of this Act; providing that prosecutions thereunder shall have precedence in the district courts; providing that persons convicted for violations of this Act shall not have the benefit of the suspended sentence act, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and be not printed.

PAGE, Chairman.

Committee Room,

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem. of the Senate.

Sir: Your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 13, A bill to be entitled "An Act to prohibit the purchase or procuring for, or the sale, gift or delivery to any person engaged or enlisted in the military or naval forces of the United States, of any spirituous, vinous, or malt liquors, or medicated bitters capable of produc-

ing intoxication; prescribing a penalty for the violation of this Act; and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

PAGE, Chairman.

Committee Room,

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem. of the Senate.

Sir: Your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 14, A bill to be entitled "An Act to prohibit making an appointment for, or soliciting any person in the service of the United States military or naval forces, to meet or come in contact with any immoral woman, for the purpose of unlawful sexual intercourse, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

PAGE, Chairman.

Committee Room,

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, President Pro Tem. of the Senate.

Sir: Your Committee on Criminal Jurisprudence, to whom was referred

H. B. No. 15, A bill to be entitled "An Act declaring that if any person shall knowingly, during the time the United States of America is at war, use any language in the presence and hearing of another, of and concerning the United States of America, the entry or continuance of the United States of America in the war, or of and concerning any flag, standard, color, or ensign of the United States of America, or any imitation thereof, or that of any officer of the United States of America, etc., and declaring an emergency,"

Have had the same under consideration and I am instructed to report the same back to the Senate with the recommendation that it do pass.

PAGE, Chairman.

The following opinion rendered by the Attorney General is here printed by order of the Senate:

Office of the Attorney General.

Austin, Texas, March 4, 1918.

Hon. E. A. Decherd, Jr., Acting Lieutenant Governor, President of the Senate, Capitol.

Sir: We are in receipt on this date of a communication from the Senate, through its proper officers, requesting the advice of the Attorney General as to the constitutionality of Senate Bill No. 14, currently known as the Drouth Relief Bill. We are not advised in the official communication as to what particular provisions of the Constitution it is suggested this bill is in conflict with, but the Senator presenting the communication to us stated that the suggestion was made that this opinion should particularly relate to Sections 6 and 10, Article 8, and Section 52, Article 3, of the Constitution. Another suggestion has been made, that the bill might be in conflict with Section 51, Article 3, of the Constitution. We will examine these sections and determine the question as best we can in the few minutes available to the writer to prepare this opinion.

Section 10 of Article 8 merely declares that the Legislature shall have no power to release inhabitants of, or property in, any county, city or town from the payment of taxes levied for State and county purposes, except in case of great public calamity. This section of the Constitution has no application to the bill before you. It refers to the subject of releasing the taxes, and makes no reference to the subject matter of the bill.

Section 6 of Article 8 relates to appropriations, and declares that no money shall be drawn from the treasury except in pursuance of a specific appropriation made by law. The bill before you makes a specific appropriation, and is not in conflict in any respect with this section of the Constitution.

That portion of Section 52 of Article 3 involved in the inquiry declares: "The Legislature shall have no power to authorize any county, city, town or other political corporation or subdivision of the State to lend its credit or to grant public

money or thing of value in aid of or to any individual, association or corporation whatsoever, etc." Our opinion is that this proposed law is not in conflict with this provision of the Constitution.

The care of poor and indigent inhabitants is recognized by the Constitution of this State as a proper subject for the expenditure of public funds.

State Constitution, Article 16, Section 8;

Article 11, Section 2.

Section 3 of Article 8 declares that taxes shall be levied and collected by general laws and for public purposes only. By the express wording of the Constitution it is entirely clear that the fundamental law regards the relief of the poor as a public purpose, for which public money may be expended.

Without entering on any elaborate discussion of this question, we will direct your attention to the authority upon which the bill before you was based at the time it was drawn, keeping in mind, of course, the fundamental rule that the courts will not declare a law void when once it has been passed by the Legislature unless it is clear and palpable that public interest is entirely absent. *Stockton and V. R. Co. vs. Stockton*, 41 Calif., 173; *Schenley vs. Allegheny*, 25 Pa., 128.

The case referred to is *State of Dakota vs. Nelson County*, 8 L. R. A., page 283. In 1890 the Legislature of North Dakota passed an act authorizing counties to issue bonds to procure seed grain for needy farmers resident therein. Under that particular law, the funds to be used for the purpose stated were raised by the sale of bonds, and were to be applied to the purchase of seed grain "for residents of the county who are poor and unable to procure the same."

The manner of executing this provision of the law was similar to that in the bill before you. In fact, the measure before you was copied substantially from the North Dakota act in this respect. The objection was raised to the North Dakota act that the tax authorized by the statute was not for a public purpose, and, second, that it conflicted with the Constitution of that State, which provided, as does our own, that

"counties are expressly forbidden to make donations or lend their aid to either corporations or individuals." The Supreme Court of North Dakota overruled both these contentions, and held that the act was for a public purpose and that it was not extending aid to private individuals in violation of the Constitution. The Court took the common sense view that merely because the impoverished class were not yet in the poorhouse, did not render aid to them in private, as distinguished from a public, purpose. The opinion, however, sustains the bill before you and is, within itself, a sufficient answer to your inquiry. We will, therefore, quote a large portion of it as the opinion of this Department in answer to your question. After having stated the various provisions of the law, the Court in part said:

"The Legislature by this enactment, so far as it can do so, has clothed the several counties of the State where there has been a preceding crop failure with authority to lend their aid in procuring seed grain to such of their citizens as are engaged in farming pursuits, who make it appear, in manner and form as detailed by the law, that they are unable to procure such seed grain by any other means. The law empowers the counties to lend their aid out of money to be obtained by the issue and sale of county bonds, such bonds to be paid, principal and interest, from funds obtained by means of a general tax levy upon all of the taxable property situated within the counties that issue such bonds. Two features of this statute stand out in conspicuous prominence: First. All benefits obtainable under the Act are confined to persons engaged in the pursuit of farming, and among farmers only those who propose to continue the business of farming after the aid in contemplation has been received by them. Second. No part of the fund is intended to be used in support or aiding such indigent persons as have already become a county charge, viz., paupers.

"The objections which may be made to the validity of this statute are twofold: First, it may be claimed that the tax authorized by the statute is not for a public purpose, hence not a valid tax; second, it may be con-

tended that, under Section 185 of the State Constitution, counties are expressly forbidden to make donations, or lend their aid to either corporations or individuals, hence that the proposed aid is unconstitutional, as repugnant to said section. The courts of this country, and of all countries where constitutional liberty exists, agree with the elementary writers upon the science of government that it is essential to the validity of a tax that it be laid for a public purpose. Difficulty has frequently arisen in discriminating between public and private objects; but where the object is primarily to foster private enterprises, and the only benefit to be derived by the public is incidental and secondary, the tax will be annulled by the courts as an abuse of the legislative prerogative. In the first instance the duty devolves upon the legislative branch of the government to determine whether a proposed tax is or is not for a public purpose; and courts are loth to interpose and declare any tax unlawful, and will only do so in case of a palpable disregard of the wise limitations, express and implied, restricting the power of taxation. But where the Legislature assumes, in the guise of taxation, to compel A to advance his private means to B in the prosecution of a purely private enterprise, the courts will not hesitate to perform the duty of declaring such tax void, as subversive of fundamental and vested individual rights, and will do so even in cases where there is no express constitutional inhibition. The power of confiscation does not exist in the Legislature. The cases cited below are but a few of the numberless cases which have applied these principles to statutes imposing pretended taxes: *Citizens S. & L. Asso. v. Topeka*, 87 U. S., 20 Wall. 655 (22 L. ed. 455); *Commercial Nat. Bank v. Iola*, 2 Dill. 353; *Parkersburg v. Brown*, 106 U. S., 487 (27 L. ed. 283); *Cole v. La Grange*, 113 U. S. 1 (28 L. ed. 896); *Allen v. Jay*, 60 Me., 124; *Lowell v. Boston*, 111 Mass., 454; *State v. Osawkee Twp.*, 14 Kan. 422; *Coates v. Campbell*, 37 Minn., 498; *Cooley*, Const. Lim. marg. p. 487; *Cooley*, Taxn. 2d ed. pp. 55, 126.

"Under these authorities, the test to be applied to the Seed-grain Statute is this: Is the tax provided for in the statute laid for a public purpose?

If this question is answered in the negative, the statute must be declared null and void, without reference to Section 185 of the State Constitution, to which the attention of the court has been particularly directed. The statute makes provision for levying a general tax, in counties issuing the bonds, for the benefit of a numerous body of citizens, who without fault of theirs, and solely by reason of successive crop failures, are now reduced to extremities, and are in fact impoverished to such an extent that they are, for the present time, wholly without the ability to obtain the grain necessary for seeding the lands from which they derive the necessities of life. It is agreed on all sides that this class of citizens, having already exhausted their private credit, must have friendly aid from some source in procuring seed-grain, if they put in crops this year. The Legislature, by this statute, has devised a measure which seems well adapted to meet the exigency, and promises to give the needed relief, with little prospect of ultimate loss to the county treasurer. It is reasonable to anticipate that the beneficiaries of the Act will be enabled to tide over their present embarrassments, and, through the aid granted them by this statute, a widespread calamity, both public and private, will be averted. The crisis in the development of the State which renders some measures of wholesale relief imperatively necessary is fully recognized by all well-informed citizens of the State, and this court will be justified in taking judicial notice of the existing status. The stubborn fact exists that a class of citizens, numbered by many thousands, is in such present straits, from poverty, that unless succored by some comprehensive measure of relief they will become a public burden, in other words, paupers, dependent upon counties where they reside for support. It is to avert such a widespread disaster that the Seed-grain Statute was enacted, and it should be interpreted in the light of the public danger which was the occasion of its passage.

"The support of paupers, and the giving of assistance to those who, by reason of age, infirmity or disability are likely to become such, is, by the practice and common consent of civ-

ilized countries, a public purpose.' Cooley, Taxn. 2d ed. pp. 124, 125.

"The relief of the poor—the care of those who are unable to care for themselves—is among the unquestioned objects of public duty.' Opinion of Brewer, J., in *State v. Osawkee*, Twp. 14 Kan., 424.

"If the destitute farmers of the frontier of North Dakota were now actually in the almshouses of the various counties in which they reside, all the adjudication of the courts, State and federal, upon this subject, could be marshaled as precedents in support of any taxation, however onerous, which might become necessary for their support. But it is not competent for the Legislature, representing the taxpayers, in the exercise of its discretion and within the limits of county indebtedness prescribed by the State Constitution, to clothe county commissioners with authority, to be exercised at their discretion, to make small loans, secured by prospective crops, to those whose condition is so impoverished and desperate as to reasonably justify the fear that, unless they receive help, they and their families will become a charge upon the counties in which they live.

"We have carefully examined the authorities above cited, and many others of similar import, and while fully assenting to the principles enunciated by the cases, viz., that all taxation must be for a public purpose, we do not, with the single exception of the *Kansas* case, regard them as parallel cases, and applicable to the question presented in the case at bar. As we view the matter, the tax in question is for a public purpose, i. e., a tax for the 'necessary support of the poor.'

"The case of *State vs. Osawkee*, Twp., supra, asserts a doctrine which would defeat the tax in question. This court has great respect for the court which promulgated that decision, and the most sincere admiration for the distinguished jurist, now upon the supreme bench of the nation, who wrote the opinion in that case. Nevertheless we cannot yield our assent to the reasoning of the case, leading to the conclusion that a loan of aid to an impoverished class, not yet in the poor house, is necessarily a tax for a private purpose. In our view, it is not certain, or even probable, in the light of sub-

sequent experience in the West, that the court of last resort in the State of Kansas would enunciate the doctrine of that case at the present day. The decision was made fifteen years ago. While the fundamental principles which underlie legislation and taxation have not changed in the interval, it is also true that the development of the Western States has been attended with difficulties and adverse conditions which have made it necessary to broaden the application of fundamental principles to meet the new necessities of those States. Under the stress of adversity peculiar to the condition of the frontier farmer, there has come to be an expansion of the legal meaning of the term 'poor' sufficient to embrace a class of destitute citizens who have not yet become a public charge. The main features of the Seed-grain Statute are neither new nor novel. It was borrowed from territorial legislation, and long prior to that the State of Minnesota, in aid of agricultural settlers upon its western frontier, enacted a series of statutes which are open to every criticism which can be made upon the statute under consideration. *Dak. Laws 1889, chap. 43. See also Minn. Gen. Stat. 1878, pp. 1024-1030.*

"The Legislature of Minnesota has frequently, and by a variety of laws, extended aid to the frontier farmers of that State, who, far from being paupers, were yet reduced to extremities by reason of continued crop failures resulting from hail storms, successive seasons of drouth, and from the ravages of grasshoppers. Under one law towns are authorized to vote a tax to defray the expense of destroying grasshoppers; under another statute, the Governor, State Auditor and State Treasurer were authorized to borrow \$100,000 on State bonds, to be issued by them, and the proceeds were to be expended in the purchase of seed grain for the needy farmers. Again, and at the same session, the same State officials were empowered to issue additional bonds to the same amount, to pay a debt contracted for a similar purpose, upon warrants of the State Auditor. Section 6 of the Minnesota Act of 1878, chap. 93, provides as follows: 'The credit of the State is hereby pledged to the payment of the interest and principal of

the bonds mentioned in this Act, as the same may become due.' By another section the State Auditor is authorized and required to levy an annual tax necessary to meet the interest and principal of the debt created by these bonds. Many of the features of the two seed-grain statutes passed at the first session of the Legislature of this State are borrowed from Minnesota. In principle, the legislation of the two States is identical. The aid extended is furnished in the form of a loan to individual farmers, secured on their crops, but to be met primarily by taxation. The destitute communities of farmers who were thus assisted in a neighboring State were enabled thereby to tide over their temporary necessities, and are now self-supporting.

"This review of legislation in aid of destitute farmers will serve to illustrate the well-known fact that legislation under the pressure of a public sentiment, born of stern necessity, will adapt itself to new exigencies, even if in doing so a sanction is given to a broader application of elementary principles of government than have before been recognized and applied by the courts in adjudicated cases. It is the boast of the common law that it is elastic, and can be adjusted to the development of new social and business conditions. Can a statute enacted for such broadly humane and charitable purposes be annulled by another branch of the government as an abuse of legislative discretion? We think otherwise. Great deference is due from the courts to the legislative branch of the State government, and it is axiomatic that in cases of doubt the courts will never interfere to annul a statute. *Cooley, Const. Lim., marg. p. 487.*

"It will be presumed that the Legislature, in passing the Seed-grain statute, acted upon the fullest knowledge of the necessities of the situation, and also presumed that they have passed the statute after due deliberation and with the clearest apprehension of the scope and purpose of the language used in Section 185 of the State Constitution. That section is not only restrictive upon counties, but is also permissive. It permits counties to lend aid for 'the necessary support of the poor.' To

our mind, the restrictive words of that section were intended to prevent the loan of aid either to individuals or corporations, for the purpose of fostering business enterprises, either of a public or private nature; but that the people who adopted the Constitution, as well as those who framed the instrument, expressly intended by the language of that section to grant a power affirmatively to the municipal corporations named in Section 185, to lend their aid and make donations for the 'necessary support of the poor.' The attention of the court has been directed to the Constitutions of nineteen of the States, in which the language of Section 185 is used verbatim, except only that in the States of North and South Dakota the words above quoted are interpolated. Why was this peculiar language introduced into the Constitutions of North and South Dakota, when nothing of the kind was found in that of the other seventeen States? Why did not the conventions which formed the organic law for North and South Dakota simply copy the language which, with this exception, is borrowed from the other Constitutions, without inserting the excepting clause under consideration? To our mind, the answer to these questions is found in the peculiar and alarming condition of the people of Dakota Territory in the year 1889, when the two Dakotas assumed the responsibilities of statehood. Such conditions had not before existed, and hence the Constitutions of other States had made no provisions to meet such necessities. When the two States formed and adopted their Constitutions the fact was well known and recognized by the people of Dakota that the condition of many farming communities was such that some comprehensive measure for their relief was an imperative necessity. In such a conjuncture the words were interpolated into Section 185 of the Constitution, which permit counties to loan their aid for the 'necessary support of the poor.' No constitutional grant of power was necessary to give the new governments authority to provide for the support of paupers in the poor houses. That power is inherent, and exists in all governments as among their implied powers and duties. By universal consent, taxes are valid when laid for

the support of paupers, or those likely to become paupers. There was no necessity and no reason for inserting a provision in the State Constitutions of North and South Dakota authorizing counties to loan their aid to maintain the almshouses. It would be absurd to assume that the framers of the Constitutions and the people who adopted them intended by this provision to enable local municipalities to issue and sell bonds, and loan the proceeds to the inmates of the poor houses; yet the power to loan aid in 'support of the poor' is given. In our opinion, this power is conferred in the organic law expressly to meet the exigencies of the situation then existing, and that it is our duty to give it that effect. We believe, and so hold, that the class referred to in the exception contained in Section 185 of the State Constitution is the poor and destitute farmers of the State, and that the first Legislature which met after the State was admitted has, by the Seed-grain Statute, put a proper construction upon the language in question. We therefore refuse to grant the writ applied for, and hold that the Seed-grain Statute is a valid enactment."

In addition to the foregoing, it should be borne in mind that one of the declared purposes of this measure, as shown in Section 17, is for the purpose of raising farm products to feed our armies in Europe during the present war, etc. This purpose is, of course, a military purpose, and, therefore, a public purpose, for which public funds may be expended.

The courts have frequently decided that the maintenance of the militia is a public purpose. *Hodgdon vs. City of Haverhill*, 79 N. E., p. 830.

The State militia, of course, was a branch of the military service and for the common defense, for otherwise it could not be a public affair. If the maintenance of the State militia in time of peace is such a public purpose as that public money may be expended, who is it who will say that the production of food is not now a public and military purpose, when the government of the United States is expending many thousands of dollars in sending men throughout the nation to stimulate the production of food? We are told in every publication and by the highest authority that this is an economic warfare as

well as a war with destructive weapons. Who can doubt this? We are urged by public authority to limit the kinds of foods which we eat, in order that the army and our allies may be fed. Can it be said that the production of food and the stimulation of that production is not a public purpose, when the necessity of its preservation and our abstinence is so strongly urged?

We will discuss this feature of the question further. That the aid to be given the destitute producers of essential military supplies is both a public and a military purpose is a question which appears to us to be beyond debate. That such aid extended at this time, under the circumstances which surround us, is not within the inhibition of aid to individuals is equally as clear and is well supported by the authority of the Dakota case. We may mention in this connection that the State of North Dakota just a few days ago passed a bill for this identical purpose and along the same lines of its previous act and along the same lines as the bill before you.

The only true constitutional provision which anyone has suggested to us that this measure violates is Section 51, Article 3, of the State Constitution. This section, in part, declares, "The Legislature shall have no power to make any grant or authorize the making of any grant of public money to any individual, association of individuals, municipal or other corporation whatsoever." The contention insisted upon is that counties are corporations and, therefore, the grant provided for in this bill to counties is inhibited by this provision of the Constitution. In the first place, it may well be doubted if this measure in fact makes a grant of public money to any county within the meaning of the language used in this section, but it is unnecessary to determine that particular question. The constitutional inhibition has no application to counties. A county, of course, is not a municipal corporation and, therefore, the contention must be that a county is a municipal corporation and, therefore, within the constitutional limitation. The theory of this contention is, to begin with, erroneous. Counties, under the Constitution of this State, are not municipal

corporations, but are merely legal subdivisions of the State.

Article 11, Section 1, of the Constitution, declares:

"The several counties of this State are hereby recognized as legal subdivisions of the State."

This constitutional definition of a county and fixing of its legal status is consistent not only with current American authority, but with the English constitution and law, under which the county system of government originated.

The American and English Encyclopedia of Law, Volume 7, page 900, in defining and giving the general characteristics of a county, says:

"A county is one of the civil divisions of a country for judicial and political purposes, created by the sovereign power of the state of its own will, without the particular solicitation, consent, or concurrent action of the people who inhabit it; a local organization which, for the purpose of civil administration, is invested with certain functions of corporate existence." (American and English Encyclopedia of Law, Volume 7, page 900.)

It is true that counties have some of the characteristics of municipal corporations, in that they are invested with certain functions of government, and have a sufficient entity to sue and be sued. Still, under our Constitution, they are mere legal or convenient divisions of the State for purposes of government. At the most, it may be said that they are only quasi corporations. (Seventh American and English Encyclopedia of Law, page 901.)

The same authority which we are following holds that counties are not municipal corporations, but, on the contrary, are but a branch of the general administration of the State government. It says:

"Not a Municipal Corporation.—For the purposes of general designation, it is not uncommon to use the term 'municipal corporations' in a sense including quasi corporations, such as counties, to distinguish public or political corporations from those which are termed private. But a county is

not, in a strict technical sense, a municipal corporation.

"County and Municipal Corporation Distinguished. — Municipal corporations proper are called into existence either at the direct solicitation or by the free consent of the people who compose them. Counties are superimposed upon the inhabitants thereof by the sovereign and paramount authority of the State. Moreover, a municipal corporation proper is created mainly for the interest, advantage, and convenience of the locality and its people. A county organization is created almost exclusively with a view to the policy of the State at large, for purposes of political organization and civil administration in matters of finance, of education, of provision for the poor, of military organization, of the means of travel and transport, and especially for the general administration of justice. With scarcely an exception, all the powers and functions of the county organization have a direct and exclusive reference to the general policy of the State, and are, in fact, but a branch of the general administration of that policy." (Seventh American and English Encyclopedia of Law, pages 902-903.)

It will be noted from the foregoing quotation that a county organization is created almost exclusively with a view to effectuating the policy of the State in the administration of various State affairs, including "provision for the poor" and of "military organization."

In the case of *Askew vs. Hale Co.*, 25 Am. Rep., 730, the distinction between county and municipal corporations is clearly stated, and among other things described as characteristics of counties is the statement that counties are one of the means used by the State for the control of roads, bridges and ferries. The court in that case in part said:

"A radical error, fatal to the argument, is in treating the county as a municipal corporation. It has corporate characteristics, but it is not a municipal corporation, though often so termed. It is an involuntary political or civil division of the State, created by statute to aid in the administration of government. It is in its very nature, character

and purposes, public and a governmental agency or auxiliary rather than a corporation. Whatever of power it possesses, or whatever of duty it is required to perform, originates in the statute creating it. It is created mainly for the interest, advantage and convenience of the people residing within its territorial boundaries, and the better to enable the government to extend to them the protection to which they are entitled, and the more beneficial to exercise over them its powers. All the powers with which the county is intrusted are the powers of the State, and all the duties with which they are charged are the duties of the State. If these were not committed to the county, they must be conferred on some other governmental agency. The character of these powers, so far as counties in this State are concerned, are all for the purposes of civil and political organization. The levy and collection of taxes, the care of the poor, the supervision and control of roads, bridges and ferries, the compensation of jurors attending the State courts, and the supervision of convicts sentenced to hard labor as a punishment for many violations of the criminal law, it is the general policy of the State to intrust to the several counties, and are all but parts of the power and duty of the State. These powers could be withdrawn by the State, in the exercise of its sovereign will, and other instrumentalities or agencies established and clothed with them." (*Askew vs. Hale County*, 54 Ala., 641; 25 Am. Rep., 730.)

The authorities cited and quoted from state the rule which obtains in Texas as announced by the Texas courts, construing our constitutional provisions. For example, in the case of *Hamilton County vs. Garrett*, 62 Texas, 605, the Supreme Court of this State held "counties are involuntary political or civil subdivisions of the State, created by general laws to aid in the administration of the government. They are purely auxiliaries of the State; and the statutes confer upon them all the powers they possess, prescribe all the duties they owe, and impose all liabilities to which they are subject."

It is true that the statutes of

this State have declared that counties shall be bodies corporate and politic, but this declaration is not found in the Constitution. It is the Constitution we are now interpreting and construing. However, the language of the Statute declaring counties to be bodies corporate and politic merely confers upon them corporate powers for the more effectual performance of the functions for which they are created, and in the language of the court "was not intended to place them upon the footing of private corporations or of other municipalities." *Sherman vs. Schobe*, 94 Texas, 130.

Counties are merely legal subdivisions of the State, created for the purpose of bringing government home to the people and supplying the necessary means for executing the wishes of the people and bringing into exercise the machinery necessary to the enforcement of local government. *Free vs. Scarbrough*, 70 Texas, 674; *Edwards County vs. Jennings*, 33 S. W., 585.

Counties are created by the Legislature for public purposes, as agencies of the State. *Galveston vs. Posnainsky*, 62 Texas, 126.

A county is not a corporation proper, but only a quasi corporation. *Heigel vs. Wichita County*, 84 Texas, 392.

The county's status is that of an instrument of the State government, through which it exercises the powers of the State, but for the State itself. *Galveston vs. Posnainsky*, 62 Texas, 127.

In the last case cited the status of counties in the government of the State is well stated, substantially, as follows:

"Counties are created by the Legislature by general laws without reference to the wish of their inhabitants, and thus for essentially public purposes. Towns and cities are incorporated through special charters which, like most special laws, are enacted at the request of those who are to be most directly benefited by them and with a view to this end. The one is created for a public purpose as an agency of the State through which it can most conveniently and effectively discharge the duties which the State, as an organized government, assumes to every person, and by which it

can best promote the welfare of all. The other, while to a given extent created for a public purpose, is so mainly for the reason that the existence of large towns and cities makes a system or degree of police there necessary which is not so in villages nor with a rural population; but the main and essential purpose for which they are created is the advantage of the inhabitants of the corporation, and in so far as such corporations receive and exercise powers other than such as would be exercised by the State in and through the county organizations, this is essentially true. *Galveston vs. Posnainsky*, 62 Texas, 118, 126. See *Sherman vs. Schobe*, 94 Texas, 126, 129; 58 S. W., 949; *Coleman vs. Thurmond*, 56 Texas, 514, 520."

It may be said that counties are created by the State for the purpose of government. Their functions are political and administrative and their powers are rather duties imposed than privileges granted, and with scarcely an exception all the powers and functions of the county organization have a direct and exclusive reference to the general policy of the State and are in fact but a branch of the general administration of that policy. *Heigel vs. Wichita County*, 84 Texas, 329; *Coleman vs. Thurmond*, 56 Texas, 520.

It is seen from the foregoing authorities that counties are not municipal nor private corporations, within the meaning of those terms, as used in the Constitution, and, therefore, there is no inhibition against the aid by the State to a county in the administration of State laws and the carrying out of State policies.

The writer of this opinion has had but few minutes in which to dictate it, but it appears to us that the authorities cited are sufficient and conclusive on the proposition that the bill before you does not violate any one of the constitutional provisions discussed in this opinion. No other constitutional provision has been urged against the measure so far as we know, and we do not pass upon the measure with reference to any other provision.

You are advised, therefore, that so far as the objections raised have been called to our attention, our

opinion is that the bill is constitutional.

Yours very truly,

C. M. CURETON,
First Assistant Attorney General.

This opinion has been passed upon and approved in executive session.

B. F. LOONEY,
Attorney General.

Since the above opinion was dictated, I have heard that, in addition to other objections, it is now said by some that the bill is prohibited by Section 48 of Article 3 of the Constitution.

This section of the Constitution reads, in part, as follows:

"The Legislature shall not have the right to levy taxes or impose burdens upon the people except to raise revenue sufficient for the economical administration of the government, in which may be included the following purposes. * * *

Then follows an enumeration of a number of governmental purposes for which taxes may be levied, but, as is observed from the language of the Constitution, the purposes named are not intended to be exclusive, but are such as may be included, and, therefore, any other public or governmental purpose, although not enumerated in the Constitution, could be properly provided for.

Under this provision of the Constitution, objection was made to the Act of April 2, 1887, providing for the payment of a bounty for the destruction of certain wild animals.

It is perfectly apparent that the destruction of wild animals is not one of the purposes enumerated in the Constitution, hence, if the enumeration of purposes is to be considered exclusive, there could be found no warrant for this bounty law. The court, however, discarded this objection and held that the appropriation to pay bounties for the destruction of wild animals was to protect citizens of this State in the use and enjoyment of their property, and was in line with a due administration of the government.

In sustaining this statute, the court, in concluding its opinion, said:

"One of the purposes for which governments are instituted is to protect citizens in the use and enjoyment of their property, and whatever

is done in pursuance of this purpose is in 'administration of the government.' That the Act was passed by the Legislature for such purpose is apparent from the object expressed in its caption, and is, therefore, in our opinion, not prohibited by our Constitution. (Dimmit Co. vs. Frazier, 27 S. W., 829-830. Also Weaver vs. Scurry Co., 28 S. W., 836.)

We respectfully submit, therefore, that the bill in question, being devoted to a public or governmental purpose, is not obnoxious to any objection arising under Section 48 of Article 3 of the Constitution.

Yours truly,

B. F. LOONEY,
Attorney General.

H. B. No. 18. By Blackmon, et al.

A BILL To be entitled

An Act authorizing counties, acting through their commissioners' courts to purchase seed to be planted on farms in such counties by residents thereof, who are poor and unable to procure same and to purchase feed for the work stock of such residents, and prescribing the terms and conditions, rules and regulations, by which such seed and feed will be furnished said residents of the counties who are poor and unable to procure the same; authorizing counties to use their general funds for this purpose, where they have such funds; authorizing them to issue warrants against such funds if such counties will have the same when the taxes for the year 1918 are collected; conferring certain powers and prescribing certain duties, relative to the administration of this Act, on the commissioners' courts and the county clerks of the various counties of the State; defining the terms of the application and the contract by which residents of the counties acting within the purview of this Act may obtain seed and feed hereunder, and providing for the payment therefor by such persons; conferring certain power and authority upon the county tax collectors and county attorneys relative to the administration of this Act; providing the terms and conditions upon which the State will advance certain amounts to the various

counties of the State to augment the funds provided for the purchase of seed and feed, and the distribution of same hereunder, and the terms and conditions thereof; prescribing certain duties for the Commissioner of Agriculture, the State Treasurer, the Comptroller of Public Accounts and the Attorney General of the State of Texas, relative to the administration of this Act; providing for the repayment to the State of funds advanced by it; defining and creating certain offenses for violations of the terms of this Act, and providing punishment therefor; stating when operation may be commenced under this Act and when the distribution of seed and feed hereunder shall cease; making an appropriation, for carrying out the purposes of this Act, in the sum of two million dollars, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas.

Section 1. The counties of this State shall have authority to expend their general funds for the purpose of purchasing seed to be planted by residents of such counties during the year 1918 and of supplying feed for the work stock of the residents of such counties who are poor and unable to procure such seed; provided, however, that not more than sufficient seed for sixty acres of land shall be furnished to any one person or one household, and not more feed shall be furnished to any one person or household than is sufficient for work stock to work sixty acres of land.

Sec. 2. All persons entitled to seed and feed for stock and wishing to avail themselves of the benefit of this Act shall file with the county clerk of the county where such applicant resides, on or before the first day of September, 1918, an application duly sworn to before some officer authorized to administer oaths. Said application shall contain a true statement of the number of acres the applicant intends to plant; how many bushels or pounds and the kind and character of seed he will require to seed said ground and the number and kind of work stock he intends to work on such lands; said application shall show that the applicant has not procured and is not able to procure the necessary seed and feed for the current year; that he desires such seed

and feed for no other purpose than that specified in this Act, and that he will not sell or store the same or any part thereof, but will use the same and the whole thereof in planting and working the crops on the lands specified in his application. Said application shall also set forth the location and ownership of lands which the applicant expects to work. The application shall also contain a true and full description of all the real and personal property owned by the applicant and all incumbrances and liens thereon. He shall also state what, if anything, he owes, and to whom, and the amount thereof, and said applicant shall further state the length of time he has resided in said county and the postoffice address of his former residence. All applications filed under the provisions of this Act shall be consecutively numbered and shall be open to public inspection; and no application shall be considered by the board of county commissioners except such as have been made and filed in the manner prescribed in this section. All applications shall be on forms prescribed and furnished the counties operating hereunder by the Commissioner of Agriculture.

Sec. 3. Any person making a false statement in such sworn application shall be guilty of false swearing, and shall be punished as prescribed for that offense in the Penal Code of this State.

Any person obtaining aid by any false statement in such application, or in aid thereof, shall be deemed guilty of swindling, and shall be punished therefor as prescribed in the Penal Code of this State for the offense of swindling.

Sec. 4. The county commissioners' court of each county operating under the provisions of this Act shall examine and pass upon all such applications, and may require such additional proof of any of the facts stated therein as may be necessary to make them cognizant of the real facts. If they approve an application, they shall direct the issuance of such grain and feed to the applicant as they may deem sufficient and consistent with the necessities of other applicants and the ability of the county to respond to the valid demands made upon it under this Act; they may direct the is-

suance of additional seed and additional feedstuff to any applicant from time to time when they deem it necessary and consistent with the conditions that confront them.

Sec. 5. The county clerk of each county shall, as soon as the county commissioners shall have approved an application, issue to such applicant an order for the number of bushels or pounds of each kind of seed, and the amount and kind and character of feed which has been allowed said applicant, unless otherwise directed by the commissioners, or by the county judge, acting for them; provided, however, that such order shall not be delivered to the applicant until he shall have signed a contract in duplicate, attested by the county clerk, to the effect that said applicant for and in consideration of the seed and feed furnished him, which shall be described in such contract, the applicant promises to pay to said county the amount of the costs of same, which shall be therein specified, together with ten per cent attorney's fees if suit should be brought on the same. The amount of such indebtedness shall become due and payable on the first day of December, A. D. 1918, together with five per cent interest per annum from the date of such contract. The contract shall be on forms prescribed by the Attorney General.

Sec. 6. On the delivery of such contract to the county clerk, he shall file the duplicate thereof as chattel mortgages are filed, and the county shall thereby acquire a just and valid lien upon the crops grown by such applicant which are planted from the seeds thus purchased or worked with work stock, for which such feed was advanced; said contract shall be a valid lien as against all creditors, purchasers or mortgages thereafter and against all liens of any kind or character, whether in good faith or otherwise, and the filing of said contract shall be held and considered to be full and sufficient notice to all parties of the existence and extent of said lien, which shall continue in force until the amount covered by said contract is fully paid.

Sec. 7. The original of said contract shall be delivered to the tax col-

lector, whose duty it shall be to collect the same when due and pay same to the county; but he shall not be entitled to any additional compensation therefor. If the amount due is not paid the collector, then he shall deliver the contract to the county attorney, who shall bring suit thereon, and for foreclosure of all liens, and shall receive for his services the ten per cent attorney's fees when collection is made; provided that the county may make use of the garnishment, attachment or sequestration proceedings; provided, however, that the commissioners' court shall have authority to extend the time of payment on any amount due under the contract, upon such terms as may be agreed upon, provided approved security is furnished; any renewal of the contract shall be a lien against the contractor's crops wherever planted, in the same manner as in the first instance, but a copy of the renewed contract must be filed as in the first instance.

Sec. 8. Any person or persons who shall, contrary to the provisions of this Act, sell, transfer, take or carry away, or in any manner dispose of the seed or feed, or any part thereof, furnished under this Act, or shall use or dispose of same or any part thereof for any other purposes than those stated in his application except under the direction of the commissioners' court, shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not less than fifty dollars, nor more than two hundred dollars, or by imprisonment in the county jail for any time not more than ninety days, or by both such fine and imprisonment.

Sec. 9. The county commissioners of every county operating under this Act shall advertise their purpose to distribute feed and seed hereunder for ten days in some newspaper published in the county prior to the date when they shall begin such distribution, or if no newspaper is published, then by notice posted at the usual place in the courthouse. Said advertisement or notice shall contain a provision that no distribution will be made after the first day of September, A. D. 1918.

Sec. 10. If more seed and feed is applied for than can be supplied by

the commissioners under the provisions of this Act, then, as near as may be, considering all the facts and circumstances, a pro rata distribution shall be made by them among those who shall have been found entitled to the benefits of this Act, taking into consideration the acreage and necessities of each applicant. The commissioners shall have the right to refuse any application which they may deem improper to grant, and may revise their adjustment on applications at any time before distribution.

Sec. 11. With the funds provided under this Act, it shall be the duty of the commissioners to purchase such seed and feed at the lowest price at which the same can be obtained, to store and care for the same when called for, and to furnish the same to applicants at the actual cost thereof, which shall include transportation, storage, insurance, handling and other necessary charges, if any.

Sec. 12. In case a county does not have the actual funds in hand, it may issue warrants against its general funds due from taxes for the current year, which warrants shall be paid when such taxes are collected and which may bear such rate of interest as may be fixed by the commissioners' court.

Sec. 13. It is further provided that on application of any county by its commissioners' court, showing that it has no further funds or will have no funds which may be used for the purposes herein contemplated, or that it has insufficient funds for such purpose, the State of Texas shall advance to such county such sum of money as may be necessary for the purposes contemplated by this Act, not to exceed thirty thousand dollars per county. The county receiving such advancements shall repay the same in not exceeding five years, making an annual payment of not less than one-fifth thereof each year. The funds so advanced to the county shall be repaid, together with four per cent interest on the sum advanced. The application of any county for State aid in this manner shall be made to the Commissioner of Agriculture, who shall investigate the conditions in such county, and if he determines that the amount of aid applied for is nec-

essary, he shall approve such application for aid and present the same to the Comptroller, who shall issue his warrant on the Treasury of this State in favor of the county for the amount approved by the Commissioner of Agriculture. For the payment of such sums so advanced, each county shall execute its written obligation to the State, being authorized thereunto by the commissioners' court.

Sec. 14. Operating under this Act, including the distribution of seed and feed in preparation for the crop year of 1918, may begin as soon as this Act becomes effective, but no distribution shall be made after September 1, 1918, but the other provisions of the Act shall remain effective for its further administration.

Sec. 15. Whenever the State has furnished aid to any county, the State Treasurer shall open an account on his books with such county, and keep a record thereof, showing all sums advanced, and all payments received, and such other facts as may be relevant.

Sec. 16. There is hereby appropriated out of any funds in the State Treasury not otherwise appropriated the sum of two million dollars for carrying out the purposes of this Act; provided, however, that no part of the funds herein appropriated shall be used directly or indirectly for any purpose other than the purchase of seed and feed and shall not be used for the payment of any salaries of assistants, agents, or employees or their expenses.

Sec. 17. The fact that the United States is engaged in the greatest war in the history of the world, which is well calculated to tax its economic strength, and the fact that the Federal Government is expending large sums of money to promote the cultivation of large areas of land and the raising of farm products to feed our armies in Europe, and the fact that the growth of farm products has become a necessity of our national existence, and the fact that throughout the State of Texas there has prevailed a drouth of unprecedented severity, causing total crop failures over a vast area, by reason of which many thousands of those engaged in agriculture are unable to obtain seed to plant their crops and feed their work stock; and the fact that more than fifty thousand of the patriotic

young men of the State have been called to the colors in defense of their country, and that many more must shortly be called and thus lessen the ability of the farmers generally throughout the State to provide seed and feed for the coming year, creates an emergency and an imperative public necessity, which requires that the constitutional rule which provides that bills shall be read on three several days, be suspended, and said rule is hereby suspended, and that this Act take effect and be in force from and after its passage; and it is so enacted.

Engrossed-Rider.

Amend House Bill No. 18 by striking out the word "when" in line 7, Section 11, and insert in lieu thereof the word "until."

Amend House Bill No. 18, page 5, Section 11, by changing the period at the end of said section to a semicolon, adding the following:

"Provided, that in the purchase of planting seed and feed herein provided for, the commissioners' court may first make application to the Bureau of Markets of the Texas Department of Agriculture for assistance in the purchase of these commodities, and that all the facilities of said department shall be at the service of different counties which are making use of the funds provided for by the provisions of this Act, to the end that said commodities may be purchased at the smallest possible cost."

Amend House Bill No. 18, page 6, Section 16, by adding to last paragraph in said section the following:

"One of the duties especially required of the Commissioner of Agriculture and his assistants under the provisions of this Act is the duty of assisting the commissioners' court of the different counties taking advantage of the provisions of this Act, in the purchase of planting seed and feed herein provided for, and whenever the commissioners' court, or county judge acting for said court of any county shall make application to the Commissioner of Agriculture for assistance in purchasing said commodities, the department shall render every assistance possible with the facilities at its command."

SEVENTH DAY.

Senate Chamber,
Austin, Texas,

Tuesday, March 5, 1917.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by President Pro. Tem. Decherd.

The roll was called, a quorum being present, the following Senators answering to their names:

Alderdice.	Henderson.
Bailey.	Hopkins.
Bee.	Johnson of Hall
Buchanan of Bell.	Johnston of Harris.
Buchanan of Scurry	Lattimore.
Caldwell.	McNealus.
Clark.	Page.
Collins.	Parr.
Dayton.	Robbins.
Dean.	Smith.
Decherd.	Strickland.
Faust.	Sulter.
Floyd.	Westbrook.
Gibson.	Woodward.

Absent.

Hall.

Absent—Excused.

Hudspeth.

McCollum.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Alderdice.

Petitions and Memorials.

See Appendix.

Committee Reports.

See Appendix.

Message From the Governor.

The private secretary to the Governor here appeared at the bar of the Senate with an executive message.

The same was laid before the Senate and read, as follows:

Governor's Office,

Austin, Texas, March 1, 1918.

To the Texas Senate:

Gentlemen: Section 12 of Article 4, of the Constitution, provides